



OF THE

FIFTH ANNUAL REPORT

OF THE

AMERICAN SOCIETY

FOR

Colonizing the Free People of Colour

OF THE

UNITED STATES.



WITH AN APPENDIX



WASHINGTON CITY

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1850

1850

The Fifth Annual Meeting of the AMERICAN COLONIZATION SOCIETY, was held on Thursday, the 7th of March, 1822, at Dr. Laurie's church, in the City of Washington.

PRESENT.

The HON. BUSHROD WASHINGTON, President
in the Chair.

The minutes of the last Annual Meeting were read and confirmed.

The Annual Report prepared by the Managers was read by the Secretary; and, on motion of the Hon. Hugh Nelson,

Resolved Unanimously,

That the Report of the Board of Directors be received and adopted; and that it be published under the direction of the Board.

On the motion of Elias B. Caldwell, Esq.

Resolved,

That the thanks of this meeting be given to Lieut. Stockton, Commander, and the officers and crew of the United States' schooner Alligator, for their zeal and activity in the suppression of the slave-trade, and for the very essential aid rendered to the Society, on the coast of Africa.

On motion of the Hon. William D. Williamson

Resolved,

That the Society contemplate, with the highest gratification, the benevolent exertions of our naval

Officers and men employed on the coast of Africa in carrying into execution the laws for the suppression of the slave-trade, and for their uniform kindness to the Agents of the Society, and aid in its measures.

On the motion of Francis S. Key, Esq.

Resolved,

That the Society entertain a high respect for the memory of the Rev. Joseph R. Andrus, Agent of this Society, and of Jonathan B. Winn, United States' Agent, who departed this life during the past year, and sincerely sympathize with their friends on this public loss: and

On the motion of Major Johnson, it was

Resolved Unanimously,

That the Officers of the Society appointed at the last Annual Meeting be continued during the ensuing year.

OFFICERS.

The Hon. BUSHROD WASHINGTON, President.

Vice Presidents.

Hon. William H. Crawford, of Georgia.
Hon. Henry Clay, of Kentucky,
Hon. Wm. Philips, of Massachusetts.
Hon. Henry Rutgers, of New-York.
Hon. John E. Howard, of Maryland,
Hon. John C. Herbert, of Maryland
Isaac M'Kim, Esq. of Maryland,
John Taylor, Esq. of Caroline, Virginia.
Gen. John Hartwell Cocke, of Virginia.
Gen. Andrew Jackson, of Tennessee,
Robert Ralston, Esq. of Pennsylvania,
Right Rev. Bishop White, of Pennsylvania,
Gen. John Mason, of the District of Columbia
Samuel Bayard, Esq. of New-Jersey,
William H. Fitzhugh, Esq. of Virginia

Managers.

Francis S. Key, Esq.	Rev. William Hawley
Walter Jones, Esq.	Rev. Henry Foxall,
Rev. Dr. S. B. Balch.	Wm. Thornton, Esq
Rev. Obadiah B. Brown,	Thos. Dougherty, Esq
Rev. Dr. W. H. Wilmer,	Col. Henry Ashton.

ELIAS B. CALDWELL, Esq. *Secretary.*

JOHN UNDERWOOD, Esq. *Recording Secy*

RICHARD SMITH, Esq. *Treasurer*

REPORT.

THE Board of Managers of the American Colonization Society are thankful to that Providence which orders all human events, and on which they have endeavoured to rely, that they are again permitted, at the close of the fifth year of their labours, to address their friends and patrons in the language of hope and encouragement.

This language they have ever considered themselves solemnly bound to renounce whenever a fair experiment should have manifested the vanity of their pursuit. When this great plan of patriotism and beneficence was first presented to the public, all that was demanded for it was a trial, and that trial they determined to conduct faithfully and fairly: and whatever might be the result, to avow and obey it.

Had it been the pleasure of the Almighty to frown upon their efforts, and to throw irremovable obstacles in the path of their pursuit, they were prepared to check their ardour into submission, and to leave their country and a cause that so awfully concerns it, to the judgments or the mercies of God, still trusting that some other way of deliverance would be opened before us, and waiting in the patience and hope of faith, for its manifestation.

Nor will they now be tempted by flattering appearances, to announce a final issue of decisive success. In detailing the proceedings of the past year, and exhibiting the present prospects of their scheme, they make no higher pretensions than that of having conducted their enterprise over difficulties, thought by some to be insuperable, to an eminence which they had never before attained, entitling it to higher consideration, and demanding for it, better hopes and greater efforts.

A few days after the last annual meeting, the brig *Nautilus*, having on board two agents appointed by the government of the United States, to reside on the coast of Africa, and two agents of the Society, the Rev. Joseph R. Andrus and Mr. C. Wiltberger, sailed from Norfolk for the coast of Africa. The same vessel likewise carried out a select company of black people, consisting of twenty-eight effective labourers, and a number of children, to recruit the party sent out under the direction of the late Rev. Samuel Bacon the preceding year. The agents were instructed to proceed to Sierra Leone and there debark the people, under the temporary protection of the authorities of that colony, which, from the amicable disposition they had uniformly evinced in relation to the establishment contemplated by the Society on that coast, it was presumed would be generously afforded. The temporary establishment of our people at Sierra Leone had, at that time, become a measure of necessity: the managers having received, shortly be-

fore the sailing of the *Nautilus*, an assurance that the negotiations for the Bagroo territory, had entirely failed, and thence concluded that the calamity of the preceding year could hardly be averted, if the people were to be again exposed in a state of anxious suspense, without proper accommodations and superintendence, through the approaching rainy season. On the arrival of the *Nautilus* at Sierra Leone, on the 9th of March, the acting governor of that colony readily proffered to the settlers, the protection which they solicited. An arrangement was concluded with the proprietors of an extensive and cultivated plantation situated on Foura Bay, within the jurisdiction, and in the immediate vicinity of Freetown, by which they became possessed of every accommodation which their health and comfort required. Having secured a lease of this estate for an indefinite term, the agents had leisure deliberately to prosecute their inquiries and observations to different parts of the coast, with a view to the selection and purchase of a territory the most advantageously situated for the purposes of the settlement. To this object, therefore, their attention was immediately directed. The negotiations which had been entered upon the preceding year, with the chiefs of the Sherbro country, and in the pursuit of which a considerable amount of merchandise had been distributed among them in the form of presents, naturally induced the agents, conformably with their instructions, carefully to investigate the ad-

advantages offered by the acquisition of the territory situated on the Bagroo, in a comparison with other situations on the coast. Their inquiries resulted in a full conviction of the expediency of relinquishing the pursuit of a settlement in this quarter; and for reasons which, to the managers, appear entirely to justify the decision.

The mortality with which our people were visited at Campelar, in the spring of 1820, was not indeed, regarded as a proof of the general insalubrity of the Bagroo country; but better information than could have been obtained before, justified the impression, that even if the difficulties of reconciling all the chiefs to a cession of a territory, could be removed, other situations upon the coast presented more favorable prospects.

But there was another consideration to influence the agents in this abandonment of the negotiations at Sherbro. The proximity of the rapidly extending settlements of the Colony of Sierra Leone, although possibly productive of some advantages to our establishment on the Bagroo, during its infancy, could hardly fail in their future progress, to be productive to both communities, of the complicated evils liable to result from the interference of their territorial limits, and commercial pursuits. These consequences could hardly be averted by the existence of the most amicable and benevolent dispositions in the governors and intendants of the settlements: while the participation of the respective governments in the popular animosities, an event

but too probable, would ever be liable to blast the fairest hopes to which the establishments might aspire.

And if the anticipations of the managers are to be realized in the future expansion of settlements once permanently founded on that coast, the time is not distant, when the proximity of colonies established on the Sierra Leone, and the Sherbro, must prove a serious restraint on the territorial enlargement of both. In yielding to the force of these considerations, the managers derive a satisfaction in perceiving, that the American agents conformed their conduct to the unanimous and earnest wishes expressed by the members of the colonial government of Sierra Leone; with whom it is important to cultivate the most amicable and conciliatory correspondence, and whose liberal conduct towards us merited such a consideration.

In prosecuting their observations down the coast, our agents were not only aided with the advice of the English resident officers and agents at Sierra Leone, but were permitted to avail themselves of all the good effects of a friendly intercourse which they had opened with the Grand Bassa nation, by the negotiations of the preceding year. These people reside near the commencement of the Grain coast of Guinea, about one hundred leagues to the southward of Sierra Leone, and between the 5th and 6th degrees of North latitude. The country bordering on the sea, assumes a different aspect

immediately after passing Cape Mesurado, the low and marshy sea-board exhibited to the northward, in a great measure disappears; the forest trees are more elevated, and the water, generally of a good quality. As these appearances commonly indicate, in tropical countries, the absence of the most formidable causes of disease, the managers considered themselves justified in the conclusion, that the healthiness of the Grain coast is equal to that of any other portion of Western Africa.—Messrs. Andrus and Bacon, who performed the service of exploring the coast, found every other point which they visited, either closed against them by the hostility of the natives, or liable to one or the other of the objections already alleged against the Sherbro.

The only common interest known by the natives of Western Africa, consists in their almost universal participation in the practices connected with the acquisition and sale of slaves. Their pursuits, their gratifications, and nearly, their *existence itself*, seems suspended on this traffick. To this ever active cause of misery and crime, are the treachery and duplicity of the chiefs of Sherbro, evinced in the progress and issue of the unsuccessful negotiations for the Bagroo lands, to be ultimately attributed. To the prevalence of this trade, must be also referred the delays and repulses sustained by the agents in all their subsequent attempts to obtain from the natives, the cession of a territory to

be occupied by their exiled brethren. When at last, they succeeded in obtaining the promise of lands, they found it altogether impossible to prevail on the native chiefs, to renounce a practice which constitutes at once, the strongest evidence, and the worst feature of their barbarism. They expressed the utmost willingness to receive the coloured people of America ; but would yield to no persuasions, drawn either from its injustice, or its desolating effects, to abjure the slave trade. This obstacle therefore, prevented the ratification of a contract for a settlement in the Bassa country, the particulars of which, and the visit and conferences of the agents with the natives, it is unnecessary to detail. As the dry season was too far advanced to admit of the removal of the people from Sierra Leone before the beginning of December, the agents waited the arrival of further instructions from the Board, which it was expected would have time to reach Africa before that period. The obvious course to be pursued, was accordingly indicated to them, in the instructions communicated by Dr. Eli Ayres, who was attached to the service of the Society, and sailed from the United States in the armed schooner *Shark*, Lieut. Perry, commander, in the month of July.

Scarcely had Messrs. Andrus and Bacon returned to Sierra Leone from their visit to the Bassa country, when the latter, together with Mrs. Bacon, experienced repeated and severe attacks of fever, which obliged them to return to the United

States, where they arrived about the middle of August.

The Rev. Joseph R. Andrus, the first agent of the American Colonization Society, whose devotion to its interests, and labours in its service, had been marked with singular disinterestedness and integrity, after a short illness, and when it was supposed he had overcome the violence of the disease, suddenly died on the 27th of July.

By a subsequent communication from Mr. Christian Wiltberger, was, shortly afterwards, announced the afflictive tidings of the death of Jonathan B. Winn, Esq. the agent of the government, on the 25th of August; which was followed by the death of Mrs. Winn, on the 31st of the same month.—The fidelity and zeal evinced by these meritorious and respected individuals, during the period of their connexion with the service, in which they were so soon called to surrender, with the attractions of country, and of christian society, their valuable lives, demand from the managers an honourable mention, and from all the friends of the cause, a grateful and cherished recollection.

This loss of persons so devoted to the cause, at the very period when the welfare of the settlement appeared most deeply concerned in their preservation, forms a melancholy supplement to the scenes of the preceding year.

It is a circumstance which the managers are disposed to refer to the special direction and goodness of a divine Providence, that Dr. E. Ayres, a medical

gentleman believed to be possessed of every qualification fitting him for the trust reposed in him, should have offered his services to the Board, and sailed for the coast of Africa at so seasonable a juncture. They are obliged likewise, to advert with gratitude, to the intelligence lately received from that country, that, among nearly one hundred black and coloured people, the natives of America, now on the coast, some of whom have been exposed to the effects of two rainy seasons, not more than four deaths have occurred during the last year; and of those, only one is properly attributable to the climate, exhibiting no greater average mortality than in many parts of our own country. Besides several other extraordinary causes of sickness, necessarily arising out of their exposed circumstances, it deserves to be considered that until the arrival of Dr. Ayres, the people had not enjoyed the regular attendance of a physician.

From a comparison of the deaths occurring among the white and black classes of the population of Sierra Leone, respectively, with the mortality experienced by the corresponding classes of emigrants from America, the conclusion appears to be authorized, that the climate is much less noxious to the black people, although the natives of temperate countries, than to the whites. The result of all the experience hitherto had of the African climate, goes directly to establish the conclusion, that it is not materially unfavourable to the health of *coloured people* emigrating to Africa from countries

situated in the latitude of the northern States of America, or even in that of Nova Scotia and Great Britain; and that the natives of the middle and southern States may sustain the transition, with little danger arising from the change of climate.

The small number of deaths which have occurred among the coloured people, and their general health since their removal from Campelar, confirms the opinion expressed in the last annual report of the Board, that much of the sickness and mortality experienced at that place, was caused by circumstances of a peculiar character.*

Shortly after the arrival of Dr. Ayres, he prepared agreeably to his instructions, to avail himself of an opportunity expected to be offered by Lieut. Stockton of the Alligator, to explore the coast and select and purchase a territory: and accordingly leaving the people at Foura Bay, and the affairs of the Society in the care of Mr. Wiltberger, he accompanied Lieut. Stockton and sailed down the coast from Sierra Leone on the 6th of December, in the schooner Augusta.

On the 11th they anchored in Mesurado Bay, and the appearance of the the coast confirming the favorable accounts they had received of it, they determined to land and attempt a negotiation.

They obtained an interview with the king, and after many difficulties, their perseverance and address succeeded: and on the 15th of December,

* See Appendix, No. I. and No. V

a contract for the purchase of a territory was drawn up and executed with the usual solemnities, which, together with the letters of Lieut. Stockton and Dr. Ayres, relating to the progress and issue of the negotiations, appears in the Appendix.* These letters will show how greatly the Society is indebted to the judgment and zeal of Lieut. Stockton, for an acquisition, of the value and eligibility of which, the concurrence of his opinion gives every confidence.

Dr. Ayres immediately afterwards, returned to Sierra Leone, intending to remove the people and stores to Mesurado as soon as practicable.

The part of Africa thus selected, and (it is hoped) by this time, occupied by our people, has always been represented as possessing great advantages for a settlement. The land purchased appears to include the whole Cape, with the mouth, and a considerable extent of the river.

This river empties itself into the Atlantic, and is in length about three hundred miles, being the largest African river between the Rio Grande to the North, and the Congo to the South. Its head waters are near those of the Niger and the Gambia, both of which rise on the north-east side of the same chain of mountains. Lieut. Stockton considers this station not only important for the relief and refreshment of our vessels of war cruizing on the African coast, but as affording the same

* See Appendix, No. VI.

facilities to our merchantmen engaged in the East India trade. To these advantages may be also added, besides those connected with the immediate object of the Society, another of still greater interest. Such a settlement as we trust this is destined soon to become, cannot fail of producing an immediate and decisive effect upon that trade that still preys upon Africa, and still disgraces the civilized nations of the world. What Sierra Leone has done and is doing, may confidently be expected in every similar establishment on the coast. What has been there done who can sufficiently estimate? We may indeed there see a colony of free blacks, increasing in numbers, intelligence and respectability—We may there see a still more interesting spectacle in the thousands of victims rescued from chains and tortures; once ignorant barbarians, now instructed and devout converts to the christian faith, manifesting in the simple piety of their characters, the reality of that faith, and giving a lesson of humility and reproof to christians inheriting the best privileges in the most favoured countries. These are great effects, demanding our praise and thankfulness. But Sierra Leone has repaid Africa with still greater blessings: her example, her influence, and efforts have given peace and security to the neighbouring coast: and who can estimate the extent of misery prevented, and of happiness conferred. to a population delivered from all the horrors of the slave trade? Every year the limits of this beneficence are extending.

and the cheering rays of her light dispelling a wider portion of the moral darkness that surrounds her. And is it unreasonable to rejoice that another rampart is to be raised against the power of the Spoiler, that another light is to arise and shine upon this benighted continent? or to expect that He who is thus blessing one such labour with success, will give his help and favour to another?

We have, unfortunately, in our country ample materials for the rapid growth of such a colony; and greatly does it concern us so to apply them. There is in Africa an abundant and almost spontaneous production of the necessaries of life. Her desolated fields call for inhabitants. We cannot fail to see, in these circumstances, every evidence to assure us that an establishment of free people of colour from our country upon the coast of Africa, will increase with no common celerity, and exert no ordinary influence in redeeming the land of their fore-fathers from its present degradation — Whether the slave trade will ever be entirely abandoned without the aid of such settlements may be questioned; but that they afford a most powerful means for the accomplishment of such an object, experience places beyond doubt.

The serious, and hitherto, but too effectual obstacles thrown in the way of the Society's benevolent measures in Africa, by the protracted existence of the slave trade, have continued to keep awake in the managers, a lively interest in whatever relates to the suppression of so great an evil.

Great Britain still continues active in this work, both by the negotiations of her cabinet, and the operations of her naval commanders;—and apparently with perfect sincerity, and a very encouraging share of success. Since the last annual meeting of the Society, a principal object of her negotiations with the government of the United States, has been to effect with the latter an arrangement, by which the most entire concert of action should be established between the public vessels of both nations, on those parts of the ocean, over which this trade is principally carried on. The committee on the slave-trade, shortly before the termination of the last session of Congress, presented in the House of Representatives, a report, in which the necessity and propriety of such an arrangement were shewn by conclusive arguments, and a recommendation to that effect, strenuously urged*. The Board regret that, owing to the advanced period of the session, this interesting report could not be called up before its close.

This delay afforded the managers, the opportunity of interposing a memorial on the subject of the slave-trade: in which all the necessary information in their power to furnish, has been detailed.† They have likewise received assurances from different parts of the Union, of the readiness of influential individuals and associations, to concur with them in their object. It is confidently be-

* See Appendix, No. I.

† See Appendix, No. II. and No. III.

lieved that the co-operation of Great Britain, France and America, in measures of suitable energy, for a very moderate period, could not fail to remove so great a reproach from the civilized world. In this conclusion the managers are confirmed by the extraordinary change which has been wrought in the manner of conducting the trade since the appearance of an American naval force on the coast of Africa. Until the beginning of the year 1820, a large share of this trade was covered by the American flag, and a large proportion of it was owned by American citizens. But at present, after a lapse of two years, the American flag has nearly disappeared, and the number of ships owned by Americans has greatly diminished, and wholly, in consequence of the occasional visits of a ship of war to that coast, and the passage of the law of the 15th of May, 1820, declaring the crime to be a species of piracy, and punishable as that offence. Lieutenants Perry and Stockton, who have both lately cruised upon the African coast, agree in representing the slave-ships as now using, almost exclusively the flag of France. That nation has joined in the general denunciation of the slave trade, and has prohibited their subjects to engage in it. That her law is disregarded is obvious: and now that the fact is apparent, it may surely be expected, that a regard to her own dignity, and consistency with her pledged engagements, will induce her to unite with England and America in some system of concert by which

this last refuge may be taken from these persevering adventurers. If our government shall confer (as we trust will be done,) with that of France upon this subject, we have reason to hope that a sufficient and honourable arrangement will be adopted.

In the last Report, the Board of Managers had the pleasure to refer to the decision of Judge Van Ness, in the case of the *Plattsburg* : they have now the high gratification of recording, to the honor of our judicial tribunals, another decision still more important. The case of the *Jeune Eugenie*, with extracts from the able opinion of the Circuit Court, and references to the authorities on which it relies, will be found in the Appendix.* A Court possessing warm feelings in favour of liberty and humanity, may be supposed, under such an influence, to have sought for new principles to justify a judgment which pronounces that the common usage and understanding of nations no longer legalizes a crime, which had once, to the disgrace of mankind, such a sanction : That the solemn acts and declarations of nations denouncing the slave-trade to be inhuman and illegal, tear away from the subjects of those nations, the shelter of their protection, and allow them no longer to plead in justification of crime, the crime of nations.

But it will be found that this decision is not only supported by the justest principles, but by the authority of the previous decisions of tribunals en-

* See Appendix, No. VII.

titled to and receiving universal respect. This nation itself has submitted, in the case of her own citizens, to such a decision, and therefore, only pronounces the law as she has herself assented to it. Nor have we ever learned that the British decisions alluded to have been complained of by any nation. Nor can it be reasonably expected that any Government which has joined in the denunciation of this trade, and forbidden it to her subjects, can seriously object to the course pursued in relation to this vessel, which leaves to her own determination, this violation of her own laws, and of the common rights of nations.

The consequences of this decision upon the continuance of the slave-trade, are important. If our ships of war and those of England were to be restrained from examining slave-ships, under the flag of nations who have prohibited the trade, and bringing them in for adjudication where there were reasonable doubts of their national character, then it is plain that the only point to which all our laws and efforts have yet pressed these violators of humanity, is to a mere change of outward character, and that the only inconvenience to which they are exposed, is that of changing their flag.

The Board have received, since the last annual meeting, from individuals of very respectable qualifications, an offer of their services in any useful capacity on the coast of Africa: of one only of which, that of Dr. Ayres, have they yet judged it necessary to avail themselves.

One hundred black persons in the City of Philadelphia, have expressed their desire to remove to Africa; and been recommended, on respectable authority to the patronage of the Society. Seventy-nine individuals have communicated the same request through the Auxiliary Society of New-York. A considerable number have likewise offered themselves to the Society, from the City of Baltimore, from Richmond, Petersburg, and Norfolk, and from the eastern shore of Maryland, with the addition of families and individuals from various parts of the United States.

The Board continue to receive additional proofs of the existence of a disposition in many extensive proprietors of slaves, in different parts of the United States, to liberate and aid them in returning to Africa at the earliest period at which the settlement will be in a state to receive them *

The funds of the Society derived from the annual subscription of the members, from the donations of individuals, and the contributions of auxiliaries, have, during the past year, proved sufficient to meet the necessary disbursements. But as a juncture has now arrived, when the sphere of the Society's operations abroad, must be extended to embrace the great objects of its institution, a proportionate increase of funds will be indispensably necessary. And now that the work is commenced, they trust that their friends will perceive the arrival of a crisis in their affairs, requiring all their

* See Appendix, No. VIII.

efforts. Success now seems to depend upon the operations of the present year, and means must be furnished to make them effectual, or the opportunity, and perhaps also the object, may be lost. On the efficient and persevering efforts of its auxiliaries and friends, the Society must now, under the blessing of heaven, place its dependence: And the Board of Managers may avail themselves of this occasion to render their acknowledgments for the important aid this institution has already derived from their zealous co-operation;* and respectfully to solicit their attention to their present request.

This Society was told, at its commencement, by those who opposed its object as chimerical, of the many difficulties which it would find insuperable. It was said the people of colour would not consent to such an emigration.

It is now proved that great numbers of them, far more than can be sent, earnestly desire it.

It was said that the climate would destroy them.

It is proved that the mortality, though under most unfavourable circumstances, has not been greater among them, than in many parts of our own country.

It was said that the natives would not receive a settlement.

The experiment has proved the contrary. All the obstacles appear to have been overcome.

Another, it was said, would be the want of resources. This is yet left. But the Board have

* See Appendix, No. IV.

never felt it, and will not now fear it. Confiding in the liberality of their countrymen, and appealing to them as men and as christians :—trusting that the Almighty prompter and promoter of benevolent efforts, will eventually prosper what he has enjoined ; and knowing that he holds the hearts of all in his hands, and the wealth of the world at his disposal, it shall be their endeavour faithfully to direct, whatever his providence may supply, to the accomplishment of the views of this Society.

APPENDIX.

No. I.

Report of the Committee to which was referred so much of the President's Message as relates to the Slave-Trade. Made in the House of Representatives of the United States, February 9, 1821.

The Committee, to which is referred so much of the President's message as relates to the Slave-Trade, and to which are referred the two messages of the President, transmitting, in pursuance of the resolution of the House of Representatives, of the 4th of December, a report of the Secretary of State, and enclosed documents, relating to the negotiation for the suppression of the Slave-Trade, report :—

That the Committee have deemed it advisable, previous to entering into a consideration of the proposed co-operation to exterminate the slave-trade, to take a summary review of the constitution and laws of the United States relating to this subject. It will disclose the earnestness and zeal with which this nation has been actuated, and the laudable ambition that has animated her councils to take a lead in the reformation of a disgraceful practice, and one which is productive of so much human misery ; it will, by displaying the constant anxiety of this nation to suppress the African slave-trade, afford ample testimony that she will be the last to persevere in measures wisely digested to effectuate this great and most desirable object, whenever such measures can be adopted in consistency with the leading principles of her local institutions.

In consequence of the existence of slavery in many of the States, when British colonies, the habits, and means of carrying on industry, could not be suddenly changed ; and the constitution of the United States yielded to the provision, that the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808.

But, long antecedent to this period, Congress legislated on the subject wherever its power extended, and endeavoured, by a system of rigorous penalties, to suppress this unnatural trade.

The act of Congress of the 22nd of March, 1794, contains provisions that no citizen or citizens of the United States, or foreigner, or any other person coming into, or residing within the same, shall, for himself or any other person whatsoever, either as master, factor, or owner, build, fit, equip, load, or otherwise prepare, any ship or vessel within any port or place of the United States, nor shall cause any ship or vessel to sail from any port or place within the same, for the purpose of carrying on any trade or traffick in slaves to any foreign country ; or for the purpose of procuring from any foreign kingdom, place, or country, the inhabitants of such kingdom, place or country, to be transported to any foreign country, port, or place, whatever, to be sold or disposed of as slaves, under the penalty of the forfeiture of any such vessel, and of the payment of large sums of money by the persons offending against the directions of the act.

By an act of the third of April, 1798, in relation to the Mississippi territory, to which the constitutional provision did not extend, the introduction of slaves, under severe penalties, was forbidden, and every slave imported contrary to the act, was to be entitled to freedom.

By an act of the 19th of May, 1800, the citizens or residents of this country were prohibited from holding any right or property in vessels employed in transporting slaves from one foreign country to another, on pain of forfeiting their right of property, and also double the value of that right in money, and double the value of their interest in the slaves ; nor were they allowed to serve on board of vessels of the United States employed in the transportation of slaves from one country to another, under the punishment of fines and imprisonment, nor were they permitted to serve on board of foreign ships employed in the slave-trade. By this act, also, the commissioned vessels of the United States were authorized to seize vessels and crews employed contrary to the act.

By an act of the 28th of February, 1803, masters of vessels were not allowed to bring into any port (where the laws of the State prohibited the importation) any negro, mulatto, or other person of colour, not being a native, a citizen, or re

gistered seaman, of the United States, under the pain of penalties; and no vessel, having on board persons of the above description, was to be admitted to an entry; and if any such person should be landed from on board of any vessel, the same was to be forfeited.

By an act of the 2nd of March, 1807, the importation of slaves into any port of the United States was to be prohibited after the first of January, 1808, the time prescribed by the constitutional provision. This act contains many severe provisions against any interference or participation in the slave-trade, such as heavy fines, long imprisonments, and the forfeitures of vessels; the President was also authorized to employ armed vessels to cruise on any part of the coast where he might judge attempts would be made to violate the act, and to instruct the commanders of armed vessels to seize, and bring in, vessels found on the high seas contravening the provisions of the law.

By an act of the 20th of April, 1818, the laws, in prohibition of the slave-trade, were further improved; this act is characterized with a peculiarity of legislative precaution, especially in the eighth section, which throws the labor of proof upon the defendant, that the coloured persons brought into the United States by him, had not been brought in contrary to the laws.

By an act of the 3d of March, 1819, the power is continued in the President to employ the armed ships of the United States, to seize, and bring into port, any vessel engaged in the slave-trade by citizens or residents of the United States, and such vessels, together with the goods and effects on board are to be forfeited and sold, and the proceeds to be distributed, in like manner, as is provided by law for the distribution of prizes taken from an enemy; and the officers and crew are to undergo the punishments inflicted by previous acts. The President, by this act, is authorized to make such regulations and arrangements as he may deem expedient, for the safe keeping, support, and removal beyond the limits of the United States, of all such negroes, mulattoes, or persons of colour, as may have been brought within its jurisdiction, and

to appoint a proper person or persons residing on the coast of Africa, as agent or agents for receiving the negroes, mulattoes, or persons of colour, delivered from on board of vessels seized in the prosecution of the slave trade.

And in addition to all the aforesaid laws, the present Congress, on the 15th of May, 1820, believing that the then existing provisions would not be sufficiently available, enacted, that if any citizen of the United States, being of the crew or ship's company of any foreign ship or vessel, engaged in the slave-trade, or any person whatever, being of the crew or ship's company of any ship or vessel, owned in the whole, or in part, or navigated for, or in behalf of, any citizen or citizens of the United States, shall land from any such ship or vessel, and on foreign shore seize any negro or mulatto, not held to service or labour, by the laws of either of the States or Territories of the United States, with intent to make such negro or mulatto a slave, or shall decoy or forcibly bring, or carry, or shall receive such negro or mulatto, on board any such ship or vessel, with intent as aforesaid, such citizen or person shall be adjudged a pirate, and on conviction *shall suffer death*.

The immoral and pernicious practice of the slave-trade has attracted much public attention in Europe, within the last few years; and, in a Congress at Vienna, on the 8th of February, 1815, five of the principal powers, made a solemn engagement in the face of mankind, that this traffick should be made to cease; in pursuance of which, these powers have enacted municipal laws to suppress the trade. Spain, although not a party to the original engagement, did soon after, in her treaty with England, stipulate for the immediate abolition of the Spanish slave-trade, to the north of the equator, and for its final and universal abolition on the 30th of May, 1820.

Portugal likewise, in her treaty in 1817, stipulated, that the Portuguese slave-trade on the coast of Africa should entirely cease to the northward of the equator, and engaged, that it should be unlawful for her subjects to purchase or trade in slaves except to the southward of the line: the precise period at which the entire abolition is to take place in Portugal

does not appear to be finally fixed, but the Portuguese ambassador, in the presence of the Congress at Vienna, declared, that Portugal, faithful to her principles, would not refuse to adopt the term of eight years, which term will expire in the year 1823.

At this time, among the European states, there is not a flag which can legally cover this inhuman traffick to the north of the line: nevertheless, experience has proved the inefficacy of the various and rigorous laws which have been made in Europe, and in this country; it being a lamentable fact, that the disgraceful practice is even now carried on to a surprising extent. During the last year, captain Trenchard, the commander of the United States' sloop of war the *Cyane*, found that part of the coast of Africa which he visited lined with vessels, engaged, as it is presumed, in this forbidden traffick; of these he examined many; and five, which appeared to be fitted out on American account, he sent into the jurisdiction of the United States, for adjudication; each of them, it is believed, has been condemned, and the commanders of two of them have been sentenced to the punishment prescribed by the laws of the United States.

The testimony recently published, with the opinion of the presiding judge of the United States court of the southern district of the State of New-York, in the case of the schooner *Plattsburg*, lays open a scene of the grossest fraud that could be practised to deceive the officers of government, and conceal the unlawful transaction.

The extension of the trade for the last 25 or 30 years must, in a degree, be conjectural; but the best information that can be obtained on the subject, furnishes good foundation to believe, that, during that period, the number of slaves withdrawn from western Africa amounts to upwards of a million and a half; the annual average would be a mean somewhere between fifty and eighty thousand.

The trade appears to be lucrative in proportion to its heinousness; and, as it is generally inhibited, the unfeeling slave-dealers, in order to elude the laws, increase its horrors—the

innocent Africans, who are mercilessly forced from their native homes in irons, are crowded in vessels and situations which are not adapted for the transportation of human beings ; and this cruelty is frequently succeeded, during the voyage of their destination, with dreadful mortality. Further information on this subject will appear in a letter from the Secretary of the Navy, enclosing two other letters, marked 1, and 2, and also by the extract of a letter from an officer of the *Cyane*, dated April 10, 1820, which are annexed to this report. While the slave-trade exists, there can be no prospect of civilization in Africa.

However well disposed the European Powers may be, to effect a practical abolition of the trade, it seems generally acknowledged, that, for the attainment of this object, it is necessary to agree upon some concerted plan of co-operation ; but, unhappily, no arrangement has yet obtained universal consent.

England has recently engaged in treaties with Spain, Portugal, and the Netherlands, in which the mutual right of visitation and search is exchanged ; this right is of a special and limited character, as well in relation to the number and description of vessels, as to space ; and, to avoid possible inconveniences, no suspicious circumstances are to warrant the detention of a vessel : this right is restricted to the simple fact of slaves being on board.

These treaties contemplate the establishment of mixed courts, formed of an equal number of individuals of the two contracting nations, the one to reside in a possession belonging to his Britannic majesty, the other within the territory of the other respective powers ; when a vessel is visited and detained, it is to be taken to the nearest court, and if condemned, the vessel is to be declared a lawful prize, as well as the cargo, and are to be sold for the profit of the two nations ; the slaves are to receive a certificate of emancipation, and to be delivered over to the government on whose territory the court is which passes sentence, to be employed as servants or free labourers ; each of the governments binds itself to guaranty the liberty

of such portions of these individuals as may be respectively assigned to it. Particular provisions are made for remuneration, in case vessels are not condemned after trial ; and special instructions are stipulated to be furnished to commanders of vessels possessing the qualified right of visitation and search.

These Powers entertain the opinion, that nothing short of the concession of a qualified right of visitation and search can practically suppress the slave-trade : an association of armed ships is contemplated, to form a species of naval police, to be stationed principally in the African seas, where the commanders of the ships will be enabled to co-operate in harmony and concert.

The United States has been earnestly invited by the principal Secretary of State for foreign affairs, of the British government, to join in the same, or similar arrangements ; and this invitation has been sanctioned and enforced, by an unanimous vote of the House of Lords and Commons, in a manner that precludes all doubts as to the sincerity and benevolence of their designs.

In answer to this invitation, the President of the United States has expressed his regret that the stipulations in the treaties communicated, are of a character to which the peculiar situation and institutions of the United States do not permit them to accede.

The objections made are contained in an extract of a letter from the Secretary of State, under date of the 2d of November, 1813 ; in which it is observed, that, “ in examining the provisions of the treaties communicated by Lord Castlereagh, all the essential articles appear to be of a character not adaptable to the institutions, or to the circumstances, of the

United States. The powers agreed to be reciprocally given “ to the officers of the ships of war of either party, to enter “ search, capture, and carry into port for adjudication, the “ merchant vessels of the other, however qualified and restricted, is most essentially connected with the institution, by “ each treaty, of two mixed courts, one of which is to reside in “ the external or colonial possessions of each of the two par-

"ues respectively. This part of the system is indispensable
 "to give it that character of reciprocity, without which the
 "right granted to the armed ships of one nation, to search the
 "merchant vessels of another, would be rather a mark of
 "vassalage than of independence. But to this part of the sys-
 "tem the United States, having no colonies either on the
 "coast of Africa, or in the West-Indies, cannot give effect.
 "That, by the constitution of the United States, it is provided,
 "that the judicial power of the United States, shall be vested
 "in a supreme court, and in such inferior courts as the Con-
 "gress may, from time to time, ordain and establish. It pro-
 "vides that the judges of these courts shall hold their offices
 "during good behaviour; and that they shall be removable by
 "impeachment, on conviction of crimes and misdemeanors.
 "There may be doubts whether the power of the government
 "of the United States is competent to institute a court for
 "carrying into execution their penal statutes beyond the ter-
 "ritories of the United States—a court consisting partly of
 "foreign judges, not amenable to impeachment for corrup-
 "tion, and deciding upon statutes of the United States with-
 "out appeal.

"That the disposal of the negroes found on board of the
 "slave-trading vessels, which might be condemned by the
 "sentence of these mixed courts, cannot be carried into ef-
 "fect by the United States; for, if the slaves of vessels con-
 "demned by the mixed courts, should be delivered over to
 "the government of the United States as freemen, they could
 "not, but by their own consent, be employed as servants or
 "free labourers. The condition of the blacks, being, in this
 "Union, regulated by the municipal laws of the separate States,
 "the government of the United States can neither guaranty
 "their liberty in the States where they could only be receiv-
 "ed as slaves, nor control them in the States where they
 "would be recognised as free. That the admission of a right
 "in the officers of foreign ships of war, to enter and search
 "the vessels of the United States in time of peace, under any

" circumstances whatever, would meet with universal repug-
 " nance in the public opinion of the country ; that there would
 " be no prospect of a ratification, by the advice and consent of
 " the Senate, to any stipulation of that nature ; that the search
 " by foreign officers even in time of war is so obnoxious to
 " the feeling and recollections of this country, that nothing
 " could reconcile them to the extension of it, however quali-
 " fied or restricted, to a time of peace ; and that it would be
 " viewed in a still more aggravated light, if, as in the treaty
 " with the Netherlands, connected with a formal admission
 " that even vessels under convoy of ships of war of their own
 " nation, should be hable to search by the ships of war of
 " another."

The Committee will observe, in the first instance, that a mutual right of search appears to be indispensable to the great object of abolition ; for, while flags remain as a cover for this traffick, against the right of search by any vessels except of the same nation, the chance of detection will be much less than it would be if the right of search was extended to vessels of other powers ; and as soon as any one nation should cease to be vigilant in the discovery of infractions practised on its own code, the slave-dealers would avail themselves of a system of obtaining fraudulent papers, and concealing the real ownership under the cover of such flags ; which would be carried on with such address, as to render it easy for the citizens or subjects of one State, to evade their own municipal laws : but if a concerted system existed, and a qualified right of mutual search was granted, the apprehension of these piratical offenders would be reduced to a much greater certainty ; and the very knowledge of the existence of an active and vigorous system of co-operation would divert many from this traffick, as the unlawful trade would become too hazardous for profitable speculation.

In relation to any inconveniences that might result from such an arrangement, the commerce of the United States is so limited on the African coast, that it could not be much affected by it : and as it regards economy, the expense of sta-

tioning a few vessels on that coast would not be much greater than to maintain them at any other place.

The Committee have briefly noticed the practical results of a reciprocal right of search, as it bears on the slave-trade ; but the objection as to the propriety of ceding this right remains. It is with deference that the Committee undertake to make any remarks upon it ; they bear in recollection the opinions entertained in this country, on the practice of searching neutral vessels in time of war ; but they cannot perceive that the right under discussion is, in principle, allied in any degree to the general question of search ; it can involve no commitment, nor is susceptible of any unfavourable inference on that subject ; and even if there were any affinity between the cases, the necessity of a special agreement would be inconsistent with the idea of existing rights : the proposal itself, in the manner made, is a total abandonment on the part of England, of any claim to visit and search vessels in a time of peace, and this question has been unequivocally decided in the negative in her admiralty courts.

Although it is not among the objections that the desired arrangement would give any colour to a claim or right of search in time of peace, yet, lest the case in this respect may be prejudicial in the hands of any, the Committee will observe, that the right of search, in time of peace, is one that is not claimed by any Power as a part of the law of nations ; no nation pretends that it can exercise the right of visitation and search upon the common and unappropriated parts of the sea, except upon the belligerent claim. A recent decision in the British admiralty court, in the case of the French slave ship *Le Louis*, is clear and decisive on this point. The case is annexed to this report.

In regard then to the reciprocal right wished to be ceded, it is reduced to the simple inquiry whether, in practice, it will be beneficial to the two contracting nations. Its exercise, so far as it relates to the detention of vessels, as it is confined to the fact of slaves being actually on board, precludes almost the possibility of accident or much inconvenience.

in relation also to the disposal of the vessels and slaves detained, an arrangement perhaps could be effected, so as to deliver them up to the vessels of the nation to which the detained vessel should belong. Under such an understanding, the vessels and slaves delivered to the jurisdiction of the United States might be disposed of in conformity with the provisions of our own act of the 3d of March, 1819; and an arrangement of this kind would be free from any of the other objections.

An exchange of the right of search, limited in duration, or to continue at pleasure, for the sake of experiment, might, it is anxiously hoped, be so restricted to vessels and seas, and with such civil and harmonious stipulations, as not to be unacceptable.

The feelings of this country on the general question of search have often been roused to a degree of excitement that evince their unchangeable character; but the American people will readily see the distinction between the cases; the one in its exercise to the extent claimed will ever produce irritation, and excite a patriotic spirit of resistance; the other is amicable and charitable; the justness and nobleness of the undertaking are worthy of the combined concern of Christian nations.

The detestable crime of kidnapping the unoffending inhabitants of one country, and chaining them to slavery in another, is marked with all the atrociousness of piracy; and, as such, it is stigmatized and punishable by our own laws.

To efface this reproachful stain from the character of civilized mankind, would be the proudest triumph that could be achieved in the cause of humanity. On this subject the United States having led the way, owe it to themselves to give their influence and cordial co-operation to any measure that will accomplish the great and good purpose; but this happy result, experience has demonstrated, cannot be realized by any system, except a concession by the maritime powers to each other's ships of war, of a qualified right of search; if this object was generally attained, it is confidently believed that

the active exertions of even a few nations would be sufficient entirely to suppress the slave-trade.

The slave-dealers could be successfully assailed on the coast upon which the trade originates, as they must necessarily consume more time in the collection and embarkation of their cargoes, than in the subsequent distribution in the markets for which they are destined; this renders that coast the most advantageous position for their apprehension; and, besides, the African coast frequented by the slave-ships, is indented with so few commodious or accessible harbours, that notwithstanding its great extent, it could be guarded by the vigilance of a small number of cruisers. But, if the slave-ships are permitted to escape from the African coast, and to be dispersed to different parts of the world, their capture would be rendered uncertain and hopeless.

The Committee, after much reflection, offer the following resolution:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested to enter into such arrangements as he may deem suitable and proper, with one or more of the maritime powers of Europe, for the effectual abolition of the slave-trade.

No. II.

MEMORIAL OF THE AMERICAN COLONIZATION SOCIETY:

Presented February 6, 1822.

To the Honourable the Senate and House of Representatives of the United States of America:

The Memorial of the President and Board of Managers of the American Colonization Society, most respectfully represents—

That, having in two former memorials taken the liberty to recommend to the patronage of the American Legislature the

specific objects of their Association, they beg leave, on the present occasion, to ascend to a subject of more general interest, on which, it is hardly possible that their own feelings should have led them to the adoption of sentiments, in which the enlightened Representation of a free and christian Republic, should not be prepared fully to concur. The propriety of this remark, must be felt when they revert to the African Slave-trade—a trade, the continuance of which, it is true, would throw a difficulty, perhaps insurmountable, in the way of your memorialists; but would also evidently prove destructive to the general interest, and disgraceful to the character of our Country. In offering those representations, which the present state of this trade seems to require, they desire, therefore, to appear before the Supreme Legislative Council of their Country, in no other character than simply that of an Association of American Citizens, and to recommend the adoption of no measures for the cure of the common evil, with a view to render them otherwise subservient to the particular objects of their Institution, than as the benevolent policy of the American Government hitherto pursued on this subject, necessarily agrees with the general spirit of the Society's plans of Colonization.

Your Memorialists are happy in being able to state, that the numerous and powerful measures for suppressing this traffick, which Divine Providence has permitted his benevolent instruments, in different countries, to bring into vigorous operation, afford the most solid grounds of anticipating, at no very distant period, its universal and final extinction. And while they devoutly acknowledge the merciful interposition of Heaven, in disposing to this favourable issue, even those awfully afflictive political events which have recently agitated the world, they cannot forbear congratulating, on the animating prospect, all the Agents in the great work, especially the Government under which they live, whose early example and consistent efforts in this cause, have contributed an important share towards so desirable a consummation. They likewise derive, from the favourable appearances on which their

annihilation is founded, a strong motive for respectfully recommending to the Congress of the United States, the adoption of one last decisive measure for hastening an event which in the counsels of Providence, has been so long and so mysteriously delayed. That measures of the most energetic description are still necessary to be applied, must be self-evident, when it is considered, that the trade has already survived the heaviest stroke which the strong arm of our own and other Governments has been able to direct against it, during the thirteen years that have elapsed since two of the most powerful nations in the world decreed its annihilation. So little successful had been the measures of our government to effect their desires, that in the year 1817, the slave-trade then (as always) holding out the strongest temptations to the avaricious and unprincipled, appeared to have acquired new strength, and to be extending to every part of the Western Coast of Africa. To our countrymen, to the subjects of France, and to the outcasts of other nations, always ready to connect themselves in any scheme, however nefarious, which promised profit, peculiar inducements to prosecute the trade were presented, by the protection which their flags afforded against search and seizure by the British Cruisers on the Coast. When it became known to our Government that the American flag was prostituted to a purpose so disgraceful, it was at once determined to wipe off a reproach at which the general voice of our countrymen had expressed their indignation. Congress passed the law of the 20th of April, 1819, and in the next session, that of the 3rd of March, 1820. These laws authorized the President of the United States to employ an armed force on the coast of Africa; and to establish in that country an agency for the purpose of receiving and administering to the immediate wants of such Africans as should be liberated from captured slave-ships.

In the execution of the Act of the 3rd of March, 1820, Agents were accordingly appointed, and the means of providing for the immediate wants of such of the wretched victims of American rapacity as our Cruisers on that station may deli-

yet from its fatal grasp, are now afforded. In the execution of these laws, much has been effected. But it cannot be concealed that much is yet to be done ; and that it is plain from the official reports of our own officers upon that station, that was the force of our Government withdrawn from the African Coast, a revival and extension of the trade would be the immediate consequence, demanding in that case a far larger expenditure and longer continuance of our efforts, than will now be necessary to extinguish the trade. Upon this subject much interesting information has been given to our Government by the Naval Officers employed on the Coast, to which your Memorialists beg leave to subjoin the corroborative testimony of sir George Collier, who commands the British squadron cruising on the same station, and which is extracted from his official Report to his Government. This officer had been instructed to cruise on the Coast of Africa, with a view to the carrying into effect existing treaties, and the execution of the municipal laws of Great Britain, for the suppression of the Slave-Trade ; with special instructions, not to interfere with French or American Vessels ; but to apprise his Government of any instances of French or American ships trafficking in Slaves, that their respective Governments might be informed of such contravention of their own regulations.

This officer, under date of February 14, 1820, states : " The flags of France and America are now generally adopted, as the best cover of illicit slaving." On the 20th of February, 1820, he writes : " Two French vessels, and one under the American flag, are at anchor between this (Sierra Leone) and the Gallinas. By this and other facts of a similar complexion, the lords of the admiralty will see that the slave-trade is not only likely to increase on this coast, but that the flags of France and America will probably, in another year, cover the whole line of the windward coast, and be used for the worst purposes."

Under date of March 7, 1820, he states the circumstances of having boarded the *Gazette*, an American built schooner under Spanish colours, having on board 82 slaves : " that num-

ber being but a little more than half her intended cargo. Her crew was composed, as these vessels' crews invariably are, of a motley groupe of nearly all nations. On the 16th of April, 1820, he further states, in his official despatch, "that swarms of American vessels, with (among others) French flags and papers from Martinique, upon this coast, will best prove how little the consequences from detection are dreaded, and with what confidence and security slave-dealers, under the French flag, act. America has passed laws forbidding the trade by her subjects, and has decreed heavy punishments on those who shall engage in it. She has also sent an armed force to the coast of Africa, and this force has captured vessels, the property of American subjects; still her measures are not yet complete, and American vessels, American subjects, and American capital, are unquestionably engaged in it, though under other colours and in disguise. But it may be hoped that time will effect in America, what it has in England, a total discontinuance of the traffick, as the government of America appears to have engaged in its suppression with great sincerity."

From these documents, (of which your memorialists beg leave to refer to the originals,) it appears that no application of our naval force could have been more seasonable, or more necessary, than that authorized by the act of the 3d of March, 1819, to be directed against the trade :

That on the termination of the period in which the Spanish trade could possess a legal existence, the same adventurers, and many of the same ships which had claimed the character and protection of that nation, merely changed their national denomination, by dishonestly assuming that of France and the United States; and persisted as formerly in the trade :

That, of the ships' capital, and persons subsequently engaged in the business, down to the present time, a great number have been American :

That less formality and scruple is evinced than formerly, in accomplishing the changes of the national character of these ships : and that the remnant of the trade has assumed a more

piratical and cruel form than it ever bore before: the flag and papers which the ships exhibit, scarcely affording a presumptive indication of their true ownership and national character—and the same ship, on different occasions, appearing in a variety of characters:—and, finally, it appears,

That the number of ships carrying French colours, has multiplied to an extent altogether incredible on any other supposition, than that adventurers of all other nations, and particularly of this country, have assumed a French disguise. It has been officially stated to our government, upon the most respectable authority, that 200,000 slaves have been carried off from the coast of Africa, by vessels under the French flag in the course of the last year.

Your memorialists perceive, in these facts, a proof of the absolute inefficiency of the measures hitherto pursued by this country for the entire suppression of the traffick even by Americans, although conducted with the greatest address and spirit:—the force so promptly despatched, and so vigorously applied by the skill and bravery of our officers, having driven them, not from the trade, but under a safer shelter. And until France shall either employ a cruising squadron to enforce her own decrees, or suffer her ships to be searched, the unprincipled adventurers of her country and ours, and of every other commercial state, will continue the trade under the shelter of her flag.

In relation to this power, your memorialists regret that they are obliged further to state, that although in 1818, she engaged to terminate the trade totally and immediately, yet there is incontestable evidence of a disposition even in some of her colonial and other officers, to whom the execution of the royal ordinance on this subject is entrusted, to connive at the most open and flagrant acts of its violation, and to permit the adventurers in this traffick, to proceed almost without molestation. On this subject your memorialists refer to a body of evidence contained in a late publication of the African Institution, which is extracted from still ampler de-

facts laid on the table of the British House of Commons in the beginning of the year 1821, and which accompanies this memorial. The protection afforded to the enterprises of American citizens, by the illegal use of the French flag, appears to have been of much greater extent than any documents, exclusively American, are able fully to detail. Your memorialists trust that France will no longer submit to this indignity. They pretend not to say that her government has ever been fully apprised of the extent of this abuse of her flag, or, if so apprised, that she has not been imposed upon by the statements of her subordinate agents in the inquiries she has made upon the subject. Whatever may have been the cause of her apparent apathy in a concern that has aroused the feelings and the efforts of almost all Christendom, none will rejoice more than your memorialists, to hear that it has been such an one as sustains the honour and humanity of that nation. Of the fact, however, here averred, she can no longer reasonably doubt, and if officially declared to her by our government, (as the reports of our naval officers will warrant,) and called upon in the spirit of amity to unite with us, in a common effort, to effect that which she has promised in the face of the world, and which, without her concurrence and aid, it seems difficult (if not impossible) to effect, it may confidently be hoped that her flag will be seen with ours, no longer protecting, but exterminating the remnants of this disgraceful traffick. That our government has a right so to speak, her own dignity and interest, (apart from the considerations of humanity,) obviously proclaim. Her own laws against her own citizens cannot be enforced, without great effort and expense, and a long continuance of them, if another Power will continue to permit its flag to be their refuge. It should, moreover, be considered, that the temptation to a commerce carried on by fraud and disguises, will make a habit of illegal trading, than which nothing can be more immediately injurious to our revenue, or demoralizing to our people. Your memorialists therefore cannot but hope that the wisdom of Con-

gress will devise some arrangement to win in France, and the other commercial powers will readily and honourably assent, which shall produce an efficient and united effort to deliver us from those evils, Africa from its awful and desolating scourge, and the world from its foul reproach.

Recent intelligence from Africa has informed your memorialists of the acquisition, by their agent, of a territory on the coast, by compact with the natives, for the settlement of the free people of colour who have been removed by the Society from this country, and to enable them to receive such as are desirous of emigrating thither. A most judicious selection, (as your memorialists believe,) has been made for this establishment; and in preferring Cape Messurado to any other point on the coast for this purpose, they have paid no small regard to the advantages it presented, from a convenient harbour and good water, as a station for the relief and refreshment of our vessels of war, and as affording many facilities to the present operations and views of the government on that coast.

Your memorialists have heretofore represented the great importance of forming such establishments, both for the purpose of relieving our own country from a vast and increasing evil, and also to facilitate the total suppression of the African slave-trade.

All who are conversant upon this subject, have agreed in the opinion, that it is by operating upon the coast, and among the natives, introducing civilization and the useful arts among them, and an honest and beneficial commerce, that the slave-trade will be most speedily and effectually extirpated. Such is the view of your memorialists in the settlement they are forming, and now that they trust they can show that their design, (admitted almost universally to be highly desirable,) has the fairest prospects of success, may they not hope that some assistance will be afforded to the further prosecution of an object, so obviously of great national importance?

May they not, at least, expect that as their success has so necessary a connection with the great public measure of sup-

pressing the slave-trade, some portion of the public countenance and support, may be afforded them?

JOHN MASON,	}	<i>Committee.</i>
W. JONES,		
E. B. CALDWELL,		
F. S. KEY,		

No. III.

Report of the Committee on the Suppression of the Slave-Trade; made in the House of Representatives, April 12, 1822.

THE Committee on the Suppression of the Slave Trade, to whom was referred a Resolution of the House of Representatives, of the 15th of January last, instructing them to inquire whether the laws of the United States prohibiting that traffick have been duly executed; also, into the general operation thereof; and if any defects exist in those laws, to suggest adequate remedies therefor; and to whom many Memorials have been referred touching the same subject, have, according to order, had the said Resolution and Memorials under consideration, and beg leave to

REPORT:

That, under the just and liberal construction put by the Executive on the act of Congress of March 3rd, 1819, and that of the 15th May, 1820, inflicting the punishment of Piracy on the African Slave Trade, a foundation has been laid for the most systematic and vigorous application of the power of the United States, to the suppression of that iniquitous traffick. Its unhappy subjects, when captured, are restored to their country, agents are there appointed to receive them, and a colony, the offspring of private charity, is rising on its shores, in which such as cannot reach their native tribes, will find the means of alleviating the calamities they may have endured before their liberation.

When these humane provisions are contrasted with the system which they supersede, there can be but one sentiment in favour of a steady adherence to its support. The document

accompanying this report, and marked A, states the number of Africans seized or taken within or without the limits of the United States and brought there, and their present condition.

It does not appear to your Committee, that such of the naval force of the country as has been hitherto employed in the execution of the laws against this traffick, could have been more effectually used for the interest and honour of the nation. The document marked B, is a statement of the names of the vessels, and their commanders, ordered upon this service, with the dates of their departure, &c. The first vessel destined for this service, arrived upon the coast of Africa in March, 1820: and in the few weeks she remained there, sent in for adjudication, four American vessels, all of which were condemned. The four which have been since employed in this service, have made five visits, (the *Alligator* having made two cruises in the past summer,) the whole of which have amounted to a service of about ten months by a single vessel, within a period of near two years; and since the middle of last November, the commencement of the healthy season on that coast, no vessel has been, nor, as your committee is informed, is under orders for that service.

The Committee are thus particular on this branch of their inquiry, because unfounded rumours have been in circulation, that other branches of the public service have suffered from the destination given to the inconsiderable force above stated, which, small as it has been, has in every instance been directed, both in its outward and homeward voyage, to cruise in the West India Seas.

Before they quit this part of their inquiry, your Committee feel it their duty to state, that the loss of several of the prizes made in this service, is imputable to the size of the ships engaged in it. The efficacy of this force, as well as the health and discipline of the officers and crews, conspire to recommend the employment of no smaller vessel than a Corvette or a sloop of War, to which it would be expedient to allow the largest possible complement of men; and if possible she should be accompanied by a tender, or vessel drawing less

water. The vessels engaged in this service should be frequently relieved, but the coast should at no time be left without a vessel to watch and protect its shores.

Your Committee find it impossible to measure with precision the effect produced upon the American branch of the Slave-Trade, by the laws above mentioned, and the seizures under them. They are unable to state, whether those American merchants, the American capital, and seamen which heretofore aided in this traffick, have abandoned it altogether, or have sought shelter under the flags of other nations. It is ascertained, however, that the American flag, which heretofore covered so large a portion of the Slave Trade, has wholly disappeared from the coasts of Africa. The trade, notwithstanding, increases annually, under the flags of other nations. France has incurred the reproach of being the greatest adventurer in this traffick, prohibited by her laws; but it is to be presumed, that this results not so much from the avidity of her subjects for this iniquitous gain, as from the safety, which, in the absence of all hazard of capture, her flag affords to the greedy and unprincipled adventurers of all nations. It is neither candid or just to impute to a gallant and high-minded people, the exclusive commission of crimes, which the abandoned of all nations are alike capable of perpetrating, with the additional wrong to France herself, of using her flag to cover and protect them. If the vigor of the American navy has saved its banner from like reproach, it has done much to preserve unsullied its high reputation, and amply repaid the expense charged upon the public revenue by a system of laws to which it has given such honourable effect.

But the conclusion to which your Committee has arrived, after consulting all the evidence within their reach, is, that the African Slave-Trade now prevails to a great extent, and that its total suppression can never be effected by the separate and dis-united efforts of one or more states; and as the resolution to which this report refers, requires the suggestion of some remedy for the defects, if any exist, in the system

laws for the suppression of this traffick, your Committee beg leave to call the attention of the house to the report and accompanying documents submitted to the last Congress, by the Committee on the Slave-Trade, and to make the same a part of this Report. That Report proposes, as a remedy for the existing evils of the system, the concurrence of the United States with one or all the maritime powers of Europe, in a modified and reciprocal right of search, on the African coast, with a view to the total suppression of the Slave-Trade.

It is with great delicacy that the Committee have approached this subject: because they are aware that the remedy which they have presumed to recommend to the consideration of the House, requires the exercise of the power of another department of this government, and that objections to the exercise of this power, in the mode here proposed, have hitherto existed in that department.

Your Committee are confident, however, that these objections apply rather to a *particular proposition* for the exchange of the right of search, than to that modification of it which presents itself to your Committee. They contemplate the trial and condemnation of such American citizens as may be found engaged in this forbidden trade, not by mixed tribunals sitting in a foreign country, but by existing courts, of competent jurisdiction, in the United States: they propose the same disposition of the captured Africans now authorized by law; and least of all their detention in America.

They contemplate an exchange of this right, which shall be in all respects reciprocal: an exchange, which, deriving its sole authority from treaty, would exclude the pretension, which no nation, however, has presumed to set up, that this right can be derived from the law of nations; and further, they have limited it, in their conception of its application, not only to certain latitudes and to a certain distance from the coast of Africa, but to a small number of vessels to be employed by each power, and to be previously designated. The visit and search thus restricted, it is believed would insure the co-operation of one great maritime power in the proposed exchange, and guard it from the danger of abuse.

Your Committee cannot doubt that the people of America have the intelligence to distinguish between the right of searching a neutral on the high seas, in time of war, claimed by some belligerents, and that mutual, restricted, and peaceful concession by treaty, suggested by your Committee, and which is demanded in the name of suffering humanity.

In closing this Report, they recommend to the House the adoption of the following Resolution, viz :

Resolved, That the President of the United States be requested to enter into such arrangements as he may deem suitable and proper with one or more of the maritime powers of Europe, for the effectual abolition of the Slave-Trade

No. IV.

Extract of a letter from R. F. Stockton, Esq. to the Secretary of the Society, dated

U. S. Schooner Alligator, Boston, July 25, 1821.

"We have had an interesting cruise on the Coast, from the Shoals of the Great River to Cape Palmas : it was during the most unhealthy season, and under circumstances not the most flattering. Being in a very small vessel, we were often exposed to heavy rains, and occasionally encountered great fatigue. Notwithstanding which, we have returned in good health, only regretting that our cruise was so short, and that we accomplished so little of that which we promised ourselves. We had the fever on board, but in every instance it yielded to the skill of our surgeon, John W. Pearce, and his assistant T. W. Wiesenthal, to whose abilities and perseverance we all, in common gratitude, owe our thanks. Under these circumstances, I am bound to believe (my conclusions however are deduced from impressions rather than from unalterable opinions) that the horror for that coast, the hue and cry about the African fever, and the noise about the tornadoes, &c. but little else than a fable, generated by policy, listened

to be because wonderful, and propagated by the interested. As to the climate, it is true the air is warm, and I think that a constant exposure to the sun must be very debilitating. The thermometrical observations of this Vessel, do not show that the temperature of the air has ever been above eighty-five degrees, measured by Fahrenheit's thermometer; but, as the country is seldom refreshed by a cool invigorating breeze, the heat is more uniform and of longer duration, and from that cause I think arises its pestilence, and not from the immediate power of the sun. The heat is not beyond bearing for a while, but from its constancy must overcome any human constitution that is unwarily exposed to it during any length of time without relief. The fever, I think, may be more readily avoided, and if taken is not so dangerous, and may be more easily destroyed than that which infests many places in our own country. The tornadoes, as I saw and felt them, are inconsiderable and harmless, in comparison with squalls met with on parts of the American coast at particular seasons of the year. We may have been particularly favoured, and it is possible that all the dangers which persons are led to apprehend, do ordinarily possess that country. But I can assure you, the fever has not assumed a living shape; the winds are not saturated with pestilence; that even on the coast of Africa oxygen forms a component part of the atmospheric air, and to inhale it is not certain death. We (for I think I am speaking the sentiments of my companions) respired as freely and enjoyed generally as good health as any country could have supplied us with. After examination and reflection, I honestly think that the climate presents all those obstacles which are the natural productions of a tropical soil, uncleared and uncultivated, but that they will yield to proper precautions; and that nothing can prevent the consummation of your wishes but limited means, bad counsels, or feeble efforts. I wish you every success: I am more and more persuaded of the usefulness of your society: I believe it will be instrumental to ameliorate the condition of Africa. The unfeeling clan of Slave-Traders are still, and more *exultingly than ever*, draining

"the dearest veins" of that country. Is such to continue to be their fate?—And will not Christendom put an end to it. Are they to be torn from their homes, from their friendships, from their forefathers' graves, while the *cultures* of the world are proclaiming *freedom*, and forming *coalitions for its security*? May the Father of Mercies take care of this oppressed people: and is it too uncharitable to hope that the hour of vengeance is approaching, when the hurricanes will "sweep from the deep" every sail that is spread for so unhallowed a purpose. My associates, most of whom were ready, (and I sincerely believe it,) to sacrifice on the altar of humanity, convenience, comfort, interest, and health, received encouragement to inform themselves on this subject: they were highly competent to the task, and will give, I have no doubt, any information within their knowledge.

My communications to you may be marked by a freedom of expression little suited to my years or the occasion, and possibly calls for an apology. My object is humanity—my means truth and sincerity.

I am, Gentlemen, with great respect,

Your obedient humble servant,

R. F. STOCKTON.

To the Committee from the Society for
Colonizing the Free People of Colour
in the United States.

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No. 3

*Extract of a Letter from Lieutenant Perry, in the
Secretary, dated*

U. S. Schooner Shark, at Sea, Nov. 19, 1821

"It is impossible for me to give a very correct description of Cape Mesurado, as I could observe it only from the ship. I understand, however, from the best authorities, that the soil is excellent, and capable of producing rice, indigo, coffee, cotton, sugar-cane, and the fruits and esculents common to tropical climates.

The Cape extends about three miles into the sea, forming on its northern side a fine bay or road, where vessels may anchor in ten fathoms water, near the shore. It is "steep and elevated towards the sea, with a gentle declivity on the land side." "The summit forms a level plane." This is the most eligible spot that I have yet seen, for the location of the Colony. The natives are less barbarous than those of the neighbouring nations, and are more pacific in their dispositions; and the presumption is, that if the trees were cut down, and the land cultivated, it would prove comparatively a healthy situation, as its projection into the sea affords it the advantage of the sea breeze, the strongest preventive of disease.

Since the date of the foregoing remarks, I have been twice on the coast, and my more extensive observations have not altered my opinion as to the advantages possessed by Mesurado over any situation I am yet acquainted with *on the Continent*.

Unfortunately, however, Mr. Mills is dead; by which event, the Agents lose the benefit of his very great influence.

Coloured people withstand the climate much better than the whites. Of the Colonists, (exclusive of the Agents,) but six have died, from the period of our departure in the *Cyane*, up to the 1st of November last. The last season has been considered a remarkably unhealthy one, and the probability is that the blacks having become seasoned to the climate, will hereafter enjoy tolerable health.

M. C. PERRY

No. VI.

Extract of a Letter from Dr. D. Ayres, Acting Agent of the American Colonization Society, in Africa, to the Managers, dated

U. S. Schooner *Augusta*, at Sea, near Cape Mesurado,
December 11, 1841.

We are now coming near Mesurado, where we intend trying to obtain a settlement. You will hear the result

In my list I gave you an account of our proceedings at Fourah Bay. I fear having tired your patience already, though there are a few more particulars which I wish to lay before you. I found there still remained some of the people and many valuable articles at Sherbro. Not knowing how soon Lieut. Stockton might come, or what stay he could make, I thought it best to despatch the schooner immediately to Sherbro for them, which happily returned a few days before the *Alligator* arrived. Mr. Wiltberger took a passage to Sherbro, and was much benefited in health. They brought away all our mill irons, and many other things, with Camaraw and his children. This man had quarrelled with Coker, while at Sherbro. He sided with Kizel, and left the Colony. They had new quarrels, and Camaraw says that Kizel was going to murder him and his family. I do not pretend to know how much of it is true. He came to me, and wanted to join the colony. I did not like his conversation and behaviour, and would not admit him, but told him to go to Freetown and go to work, to maintain himself until we left this place for land of our own; then, if he behaved himself, he might join the compact. He then pretended it was not his wish, nor ever had been, to join the Colony. He made application to Lieut. Stockton to take him to the United States. We have his three children on board; but he went on shore, thinking, I suppose, that Stockton would wait his motions. But the signal was made for sailing, we got under way, and left him.

When Lieut. Stockton arrived at Sierra Leone, I had an interview with him. He immediately sent his officers to examine the *Augusta*. They pronounced her not sea worthy, her masts, spars, and upper rigging being decayed. In consequence of the short allowance of his provisions, it became necessary for me to provide a method of returning to Sierra Leone, when we went down the coast. I applied to Mr. McCauley for masts and spars, but there was no timber to be had that would answer the purpose. I then tried to charter a vessel for the purpose; but one offered, which upon examination proved to be nearly as bad as our own. Lieutenant

Stockton consented, as no alternative appeared, to venture in our own vessel.

On the 6th of December, we sailed out of the harbour. Lieut. Stockton was good enough to put on board the *Augusta* Lieut. McKean and four men: I took seven of our men.

We have had a very calm passage, and our old vessel sailed remarkably well. We anchored last night in Mesurado Bay. This morning, 12th of December, at day light, saw a number of Croomen rowing off to us—got under way, and at fifteen minutes past ten o'clock cast anchor close under Cape Mesurado. In a few minutes the boats were hoisted out, and the Lieutenant and myself were on shore.

We informed the people who gathered round us, that we had come to see the king: that we wanted to get some land to build houses on: that we had heard very good accounts of king Peter, and preferred settling with him: that the people on the Bagroo wanted us to settle in their country, but we said “No—we will go and see king Peter first—if he won't let us have land, then we settle somewhere else.” We pretended to be very indifferent whether we succeeded with them or not, as there were so many places on the coast which we could get. This, in the end proved much to our advantage.

We finally succeeded in getting a sight of king Peter, and in a short time ended our palaver, by his thanking us for giving him the preference to his neighbours, and that we might have Mesurado: and to-morrow morning we are to finish the palaver and give a book. If in the morning, we find no new obstacles in the way, but are enabled to complete our bargain, I think we may pronounce ourselves very fortunate indeed. Lieut. Stockton will give you a more particular account of our negotiation with the natives, and also a particular account of the place we have selected for a settlement.

I will now offer you some of the reasons which induced us to make the attempt at procuring Mesurado instead of taking Bassa, the situation selected by your other Agents.

In the first place, all I had read on the subject, all the information acquired from British Naval Officers with whom I

have talked since my arrival, as well as some other intelligent persons, concur in recommending Mesurado, for many reasons. Bassa is a low level country, consequently must be deprived of refreshing breezes, and for ever unhealthy. It has no harbour, and six months of the year, landing in boats is impracticable. It has no good watering place.

On the contrary, Mesurado Cape is a considerable eminence of land jutting into the sea, high enough to partake of the refreshing sea and land breeze, but not sufficiently elevated to obstruct the vapours and be rendered damp and unhealthy by exhalations and clouds hanging over it nearly half the day. There is a fertile island situated in the mouth of the river. A battery erected on the Cape would effectually command the harbour and entrance of the river. There is a pretty good harbour, and good watering place of excellent water.

Of these particulars you will receive a more minute account, from Mr. Stockton. The land at this place, is equally fertile with Bassa, or any other part of the coast. With good cultivation it will yield all the productions of the tropical climate.

But another and an insuperable obstacle existed with respect to Bassa. When Messrs. Bacon and Andrus left there, they took with them the king's son and another youth, and placed them under Mr. Johnson, at Regent's Town, to receive an education. The king's son has since deceased. Mr. Johnson was unwilling to trust the interpreters who had been present at the time of taking the boys, on shore, until the king had been informed of the death of his son, and had received the satisfaction for him which was customary in such cases. It therefore became necessary that we should take the youth who was present with the prince at his death, as well as the interpreter. The youth came over night, and went with me on board the *Augusta*. The interpreter was to have been on the wharf the next morning at sunrise, but from some unknown cause he did not come, and between eight and nine o'clock we got under way, and went to sea without him.

These things taken into consideration, determined us to attempt to negotiate for Mesurado. It has been the anxious desire of European Powers, to get possession of this place, for more than one hundred years. Both the English and French have made repeated trials to obtain it. Lieut. Perry attempted to open a negotiation for it, by writing to Mr. Mills. They have all mistaken the true policy of dealing with these people; and no negotiation, other than for the necessities of life, will be obtained from them without using more policy than this. Knowing the methods that had hitherto proved abortive, we determined to try a new system of proceeding; and instead of trusting to others to make that impression upon the king, which their fears or cupidity might prompt, we determined to go ourselves directly to the king, and plead our own cause.

On the 11th of December, in the night, we came to anchor off St. Paul's river. At day light on the 12th, got under way, and soon observed several canoes coming off to us. The moment we anchored our boat was out, and Mr. Stockton and myself went on shore before any wrong impression could be made upon the king. We landed on the beach, at the king's Crootown, and told them we wanted to see the king; we had presents on board for him; and showed them some rum and tobacco which we had taken on shore for him.

Three or four of the people who had gathered round us were dressed in large striped hoods, thrown over their shoulders, and had the appearance of being people of authority.

After waiting some time, they sent off an express for king Peter. It had been represented to us unsafe to go on shore without being armed, and that we should certainly be murdered and robbed. But we determined to go unarmed, as an evidence that our aim was pacific. While sitting and waiting for the king, under the shed of a Crooman, the people kept collecting, most of them with knives hanging to their sides. At length there came five or six armed with muskets. I began to think there might be some truth in the reports. We were now surrounded by fifty or sixty, armed in this way, and

we without the means of defence, except a demijohn of whiskey and some tobacco. I narrowly watched their countenances, as well as that of Mr. Stockton. I saw he was no way concerned, and a little observation showed there was yet no hostility in their intentions.

Express after express, was sent for the king. After a long time, one of the most reputable looking men told us "The king be fool—he no talk English—I his mouth, what I say, king say,—What you want?" We told him we were desirous of getting a place in Africa to build a house, make farms, &c. that we had come by Cape Mount and many other places, where we might probably have got land, but we heard king Peter was a good man, and we preferred coming first to see if we could buy a place of him. If we got a place, we raise tobacco, rum, sugar, &c. and sell to the natives, for rice, yams, beeswax, &c. We told them likewise, that we would have schools, and teach their children to read and write.—This immediately excited their suspicions that we were going to break in upon the customs of their forefathers.

Lieut. Stockton has shown himself throughout this business to be the most consummate master of the human heart, and it is entirely owing to his address and penetration that we have succeeded in obtaining a situation, the most desirable in many respects, of any on the coast: and for which, thousands of pounds would have been given by other Powers, could they have obtained it. We discovered at once, that the only way in which we could expect to succeed, was to touch their interest, by holding out to them such objects as appeared to them valuable, and not such as we should value ourselves.

After explaining our views to this person, and discussing them some time, they sent another message to the king, and he then made his appearance. He was dressed in a cotton garment of large blue and white stripes, thrown over his shoulders, and a person holding an umbrella over his head. He came, shook hands with us, and took a seat. When his interpreter related to him our object in visiting him, we did not fail to let him know the high estimation in which we held him

for veracity and punctuality ; and that this had induced us to prefer him to some other chiefs : and like most monarchs, we found his ear always open to the sound of his own praise. He said “ he thanked us for the favour we had done him in coming to him first, and we might have land.” We told him we wanted the Island at the mouth of the river, and the Cape. He objected to the Cape, and said “ if any white man was to settle on it, then king Peter would die, they would bury him, and then his women would cry a plenty.” We did not fail to place in the most favourable light the advantages which our trade would be to him ; but took good care, after our former experience, how we attempted to oppose their prejudices, or to offer to their consideration any views which they could not fully comprehend. we therefore said nothing of civilizing or christianizing them ; but left this, hoping our future example may recommend our principles to their adoption. After sitting some time in palaver, the king told us he would see his head men, and next morning he would meet us again on the beach, and make a book for the land. We gave them our rum and tobacco, and returned to our vessel.

On the 13th, we again went to meet his majesty. We found his head men but no king ; yet we sent off an express for him. It was not till after some time and several messages had passed, that we could get him to meet us. After sitting three hours in palaver, the unfortunate subject of the slave-trade was broached, and we again broke up the palaver.

Our prospect at this time was very dull ; we however determined not to give the subject up lightly ; and the next day went on shore again, where the king appointed to meet us. When we got there, we found neither king nor any of his head men. Our prospects now, were truly discouraging. We, as we had done before, sent off an express for him. He sent word he would not come, nor let us have any land. It then became necessary either to go and seek the king in his capital, or to give up the case as impracticable, as all persons had found it, who had attempted to negotiate for this place before. To go to the town was to place ourselves entirely in

the power of a nation who had always been represented to us so savage as to render it unsafe to land on their shore without being completely armed. However, we were determined to go; and were conducted by a Crooman, through dark dismal ways, at one time wading through the water, and at another wallowing through the mud; passing through thick and dark swamps, in narrow paths, for six or seven miles into the interior. If one of us stood behind, the Crooman would halloo to us to "come along, come along—the devil will catch us." We at length arrived at his majesty's capital. We were shown into a palaver hall, spread with mats, to wait the coming of the king. The head men came and shook hands with us, and informed us that he was dressing, and would see us in a short time. They looked very grave, and few of them looked well pleased. After waiting about one hour, the king made his appearance. Instead of coming and shaking hands with us, he went and seated himself under another palaver hall. His prime minister then came and invited us to go to the king. He shook hands with us, but looked very angry. I had forgot to tell you, that the night before, they had accused the Croomen of being our friends, and drove them all out of town; and the poor fellows, for their fidelity to us, had to go and sleep on the beach, on the bare sand.

The first word the king said to us was, "What you want that land for?" This question, so often asked and as often answered, had again to be explained to him. We now found that among the Croomen who had been on board our vessel the day before, there was one who had been engaged with the father of the Bassi youth we had on board. This man told them we had taken away the king of Bassi's son and killed him, and when we got the land, we should cut their throats and bury them. Another Crooman saw some of our colonists on board and knew them: this circumstance gave them to understand we were the people who had been quarrelling so much at Sherbro. And, as if all these things could not throw difficulties enough to try our diplomatic skill, one fellow pre-

sented himself to Lieut. Stockton, and told him he was one of those whom the Lieutenant had captured on his last voyage, in the *Daphne*, and they had recaptured her on their passage home. These circumstances accounted for the change of conduct in the king and people. Our cause now looked truly deplorable. We were unarmed, in the midst of a nation so exasperated against us. But Lieut. Stockton's dexterity at mixing flattery with a little well-timed threat, turned all to our own advantage. When they complained of his taking the French for trading with them in slaves, he told them his orders were not to meddle with the French or any other nation: that when he saw the French vessel, he sent his boat to see who she was; that they fired at him, and when they fought him, then he whipped them and took their vessel: that he would not suffer any body to make a fool of him: and now king Peter wanted to make a fool of him: that he tell him, three days, he would let him have land, and drink up his rum, and take his tobacco, and now he say shan't have any land: this was fooling him. I believe the old king was afraid of being served as the French vessel was, for he soon came to, and promised to call some more kings, and meet us on the shore next morning, and make a book, which was to give us the land.

Mesurado Bay, December, 12.

It was my intention to have given you a circumstantial account of each day's proceedings while negotiating for the land; but we have been constantly employed, and now that we have completed the contract, we are in so great a hurry that I shall not have time to give you the particulars. I hope you will see Lieut. Stockton as soon as possible; he can give you all the information on the subject which will be necessary.

We have this morning been on shore and selected a situation for a town, and directed six houses to be built against my return from Sierra Leone with the people.

I consider our contract not only as a triumph over savage prejudice, but over European negotiation. For this you are entirely indebted to the energy, sagacity, and perseverance

of Lieut. Stockton. We have purchased a tract of country containing one million of dollars' worth of land, with the best harbour between Gibraltar and the Cape of Good Hope, an Island containing nine houses, and six others to be built: there are excellent springs of water near the site we have selected for a city; and at the pitch of the Cape, there is an excellent place for watering ships. All this we have purchased in fee simple for little more than was stipulated to be given for the annual rent of Bassa, and not amounting to more than three hundred dollars. The Island at the mouth of the river we have named "Perseverance," to perpetuate the long and tedious palaver we had in obtaining it.

I am anxious to have a large ship with good accommodations, to lie in the harbour next rains, that she may serve as a hospital for the sick. In case I get sick, I want to run off a mile from the land, and remain until I get well. Lieut. Stockton can give you my views on this subject, and his own, which I believe are similar.

E. AYRES.

Agreement for the Cession and Purchase of Lands, entered into between the Agents of the American Colonization Society, and the King and Head-men of Cape Mesurado.

KNOW ALL MEN, That this Contract, made on the fifteenth day of December, in the year of our Lord one thousand eight hundred twenty-one, between King Peter, King George, King Zoda, and King Long Peter, their Princes and Head-men, of the one part; and Captain Robert F. Stockton and Eli Ayres, of the other part: WITNESSETH, That whereas certain persons Citizens of the United States of America, are desirous to establish themselves on the Western Coast of Africa, and have invested Captain Robert F. Stockton and Eli Ayres with full powers to treat with and purchase from us the said Kings, Princes, and Head-men, certain Lands, viz Dozoa Island, and also all that portion of Land bounded north

and west by the Atlantic ocean, and on the south and east by a line drawn in a south-east direction from the north of Mesurado river. We, the said Kings, Princes, and Head-men, being fully convinced of the Pacific and just views of the said Citizens of America, and being desirous to reciprocate the friendship and affection expressed for us and our people, Do HEREBY, in consideration of so much paid in hand, viz : Six muskets, one box Beads, two hog-heads Tobacco, one cask Gunpowder, six bars Iron, ten iron Pots, one dozen Knives and Forks, one dozen Spoons, six pieces blue Baft, four Hats, three Coats, three pair Shoes, one box Pipes, one keg Nails, twenty Looking-glasses, three pieces Handkerchiefs, three pieces Calico, three Canes, four Umbrellas, one box Soap, one barrel Rum ; And *to be paid*, the following : three casks Tobacco, one box Pipes, three barrels Rum, twelve pieces Cloth, six bars Iron, one box Beads, fifty Knives, twenty Looking-glasses, ten iron Pots different sizes, twelve Guns, three barrels Gunpowder, one dozen Plates, one dozen Knives and Forks, twenty Hats, five casks Beef, five barrels Pork, ten barrels Biscuit, twelve Decanters, twelve glass Tumblers, and fifty Shoes, FOR EVER CEDE AND RELINQUISH the above described Lands, with all thereto appertaining or belonging or reputed so to belong, to Captain Robert F. Stockton and Eli Ayres, TO HAVE AND TO HOLD the said Premises, for the use of these said Citizens of America. And We, the said Kings, and Princes, and Head-men, do further pledge ourselves that we are the lawful owners of the above described Land, without manner of condition, limitation, or other matter.

The contracting Parties pledge themselves to live in peace and friendship for ever ; and do further contract, not to make war, or otherwise molest or disturb each other.

We, the Kings, Princes, and Head men, for a proper consideration by us received, do further agree to build for the use of the said Citizens of America, six large houses, on any place selected by them within the above described tract ceded land

IN WITNESS whereof, the said Kings, Princes, and Headmen, of the one part; and Captain Robert Stockton and Eli Ayres, of the other part; do set their hands to this Covenant, on the day and year above written.

(Signed)

King Peter, ✍ his mark

King George, ✍ his mark.

King Zoda, ✍ his mark.

King Long Peter, ✍ his mark

King Governor, ✍ his mark

King Jimmy, ✍ his mark.

Signed)

Captain Robert F. Stockton

Eli Ayres, M. D.

Witness, (Signed)

John S. Mill,

John Craig.

Agreement with J. S. Mill.

I HEREBY CONTRACT, for the consideration of one barrel of Rum, one tierce of Tobacco, one barrel of Bread, one barrel of Beef, one barrel of Pork, and one piece of trade Cloth, to give to Captain R. F. Stockton and Eli Ayres, all my right and title to the Houses situated on the Land bought by them on Cape Mesurado.

In Witness whereof, I have hereunto signed my name, on this sixteenth day of December, one thousand eight hundred twenty-one.

(Signed)

JOHN S. MILL

Witness, (Signed)

Charles Carey, ✍ his mark.

William Rodgers, ✍ his mark.

We promise to present to Charles Carey, one Coat.

(Signed)

R. F. STOCKTON

ELI AYRES

United States' Schooner *Aligator*, Mesurado, west coast of Africa,

December 16, 1821.

I am anxious that this letter may be conveyed to you by the first opportunity—and take the earliest moment to enclose copies of the written instruments, which were signed yesterday and to day; by which a tract of land and some houses at Cape Mesurado, have been ceded to the American Colonization Society; and also a bird's-eye view of the harbour, &c.

I hope you will perceive by these documents, (though I must confess they are imperfectly executed,) the advantages that may reasonably be expected from a situation which has been for many years, (if historical report be true,) anxiously wished by many nations. I have read and heard so many contradictory and disgusting accounts of various plans on the coast, that, in fact, I cannot be reconciled to the *safety* of enlarging with regard to Mesurado; but would rather that proper measures, great exertion, and reasonable time, should show whether I have been mistaken, or whether your agent has been either infatuated or deceived. It is, indeed, unnecessary to do so, if you are convinced of my sincerity, and believe in the sincerity of my views in lending my assistance to you; particularly, as you will doubtless receive all intelligence, on that subject, from your zealous and worthy agent; or to attempt to excuse myself for not having advised a negotiation for Bissao Axum, or some one of the places which have been so strongly recommended. I will be content to say, that procrastination and perfidy had already done too much mischief, to allow me to practise the one, or to give an opportunity for the other to be practised upon me. I received the best information that my own examination of the coast could give. I believed that there was no spot more eligible than this of Mesurado; and advised immediate contract payment, and possession.

It may not be amiss, however, and perhaps it is due to you, that some more positive reason should be given for not having examined Axum; upon which situation some of your friends have lavished so many encomiums. *First*, then—the English

interest, which is extensively spreading itself on the coast of Africa, has never, as far as I have been enabled to inform myself, been exerted to obtain it. *Another*, they have given up the fort at Cape Appolonia, which is within a short distance of Axim. I had other objections to wasting time at that place, when it shall be necessary to state them. But I acknowledge these were, and are satisfactory to me with my present notions, in regard to the policy of England on this coast. Nor do I know that I am hazarding much, but think I am entitled to say, that, in the progress of a few years, our Indiamen will not be necessitated to call at the Cape Verde Islands for water, provisions, or a departure, at the risk of being fired into, as they will be enabled to procure all those necessaries at Mesurado, (if I am not wrong,) on more reasonable, certainly on more friendly terms.

To multiply words for your instruction might be offensive, as well as a wanton exposure of my own weakness, wherefore, Gentlemen, I will not now suggest, either what I think will be best to facilitate the permanent interests of the Society, or what ought to be immediately accomplished, to secure the advantages already obtained. I will simply urge, (for which I presume I may expect your forgiveness) that if we were allowed to look into, and examine those events, which carry with themselves the evidences of supernatural agency, we would find, I doubt not, that all the distresses which have grown to this Institution, whether from sources which have drawn forth the tear of anguish, or from the more unimportant causes of despondency and vexation, have been hallowed by infinite wisdom; and that from them we derive reasonable and strong grounds for future hope, that the five ensuing months are of infinite importance to you; and that during the progress of that time, the fate of your colony will be decided.

As the Government is not at all concerned in your plans of Colonization, it would not be a proper subject of communication from me to the honourable Secretary of the Navy; but believing that the slave-trade, (in the destruction of which the Nation as well as the Government are so sin-

cerely and zealously engaged,) has received, by the purchase you have made at Mesurado, a fatal blow ; under which it may indeed linger some time, but must eventually expire ; and being persuaded of his philanthropy and benevolence, and that it will give him personally much pleasure to hear of your success ; allow me to ask you to present to him the papers accompanying this letter.*

You have been too often disappointed in listening to the pleasing voice of zeal and enthusiasm, that I have been afraid to rejoice with you on your future prospects, and have curbed the natural current of my own feelings to prevent a recurrence of similar circumstances. I cannot refrain, however, from saying, that now is the moment. Let christians, and all the friends of humanity, join heart, and hand, and purse ; let experience, and wise counsellors, direct ; youth, energy, and integrity, execute ; all difficulties must vanish : and my sagacity on it, that the Colony, founded on North American humanity and liberality, will not be second to any in its contributions to the happiness of man, and the glory of our God.

With the hope that all my actions will show how much I have had at heart the public good ; and a wish to approve, as well as to express myself your friend,

I have the honour to be,

Your obedient and very humble servant,

R. F. STOCKTON

* The first act of the *new order of things* at Mesurado was, to declare that the slave-trade was contrary to the law of nature ; and a violation of "*jus gentium*;" that all persons, *native born*, or foreigners, so engaged should be considered "*hostes humani generis*," and if prosecuted and convicted in our high Court of Admiralty, should be capitally condemned and punished.

No. VII.

Statement of the Case, and Extract from the Opinion of Judge Story, on the Trial in the Circuit Court at Boston, in December, 1821, of the French ship La Jeune Eugenie.

By an act passed by the Congress of the United States, on the 2d of March, 1807, the importation of any slaves into any port of the United States was prohibited after the 1st of June, 1808; the time limited by the Constitution of the United States, beyond which slaves could not be imported. By this act the President was also authorized to employ armed vessels to cruise on any part of the coast, where he might judge attempts would be made to violate the act, and to instruct the commanders of armed vessels to seize, and to bring in, vessels, found on the high seas, contravening the provisions of the law. Previous acts had been passed to prevent the citizens of the United States from being engaged in the transportation of slaves from Africa, or elsewhere, to any foreign port.

By an act passed on the 20th of April, 1818, in addition to the above, it is provided, among other things, that in all prosecutions under this act, the defendant shall be holden to prove, that the negro, &c. which he shall be charged with having brought into the United States, or with purchasing, holding, selling, &c. was brought into the United States, at least five years previous to the prosecution, or was not brought in, holden, purchased, or otherwise disposed of, contrary to the provisions of this act.

By an act passed on the 3d of March, 1819, the power of employing the armed ships of United States, to seize and bring into port any vessel engaged in the slave-trade by citizens or residents of the United States, was continued in the President. And by this act such vessels, together with the goods and effects on board, are to be forfeited and sold, and the proceeds to be distributed in like manner as is provided by law for the distribution of prizes taken from an enemy, and the officers and crew to undergo the punishment inflicted by previous acts.

On the 15th of May, 1820, it was further enacted, that if any citizen of the United States, being of the crew or ship's company of any foreign ship or vessel, engaged in the slave-trade, or any person whatever, being of the crew or ship's company of any ship or vessel owned in the whole, or in part, or navigated for, or in behalf of, any citizen or citizens of the United States, shall land from any such ship or vessel, and on any foreign shore, seize any negro or mulatto, not held to service or labour, by the laws of either of the States or Territories of the United States, with intent to make such negro or mulatto a slave, or shall decoy or forcibly bring, or carry, or shall receive, such negro or mulatto, on board any such ship or vessel with intent as aforesaid, such citizen or person shall be adjudged a pirate, and on conviction shall suffer death.

Under the authority of these acts, and for the purpose of more effectually enforcing the provisions of them, the public armed schooner *Alligator*, commanded by Robert F. Stockton, Esq. was sent, among other vessels, to cruise on the coast of Africa, early in the year 1821. On the 17th of May last Captain Stockton fell in with the schooner *La Jeune Eugenie*, at Galenas, near Cape Mount, on the western coast of Africa, and captured her on the suspicion of her being engaged in the slave-trade; she at that time bearing the French flag, and having French papers. She was brought under the charge of a prize master, into the port of Boston, and libelled at the September Term of the District Court next following, as an American vessel engaged in the slave-trade.

All the regular ship's papers, and other documents relating to the cargo, were found on board of her. And it appeared from her register that she was owned by Messrs. Raibaud and Labatut, residents at Basseterre in Guadaloupe, but was built in the United States. It also appeared in evidence that she was fitted out at Basseterre in the month of February next preceding her capture; sailed from there, sometime in the same month, to St. Thomas, and from thence to the coast of Africa, with the ostensible purpose of procuring palm oil and other products of Africa.

Wm. McKean, a midshipman on board of the Alligator, and the prize master who brought the Eugenie into the port of Boston, deposed that the Eugenie had a moveable deck, that her main hatchway was very large, and grated with three iron bars, that the water on board was sufficient to supply two hundred men for a month. And her provisions, including rice, enough for her crew for a twelvemonth.

Joseph Dickson, a seaman belonging to the Alligator, deposed, that the Eugenie had a crew of nineteen persons, including boys; some of them Spaniards and some Italians, that she had a large supply of provisions sufficient for her crew for five months, and a number of handcuffs and fetters.

It was also in evidence that there was a surgeon attached to the vessel, and a supply of medicines on board.

Henry Henderson, a seaman belonging to another vessel on the coast, which was also captured by the Alligator, deposed, that he was on shore at a place called the Factory, four and a half days, in company with the Captain of the Eugenie. And that he understood that the Eugenie was then after a cargo of slaves. That the Captain had then procured twenty or more, and said that he should have all the slaves ready in twenty days; and Henderson further deposed, that he was told by the owner of the Factory, that the Captain of the Eugenie was to have 250 or 300 slaves. And that he also heard the king's son say the same thing.

All the seamen belonging to the crew of the Eugenie, who were examined, deposed, that they had no reason whatever to suppose that the vessel was engaged in the slave trade.

A claim was entered by the Chevalier de Valnais, the French consul, on behalf of the owners of the Eugenie, and also a protest against the seizure and judicial proceedings, on behalf of the French Government. A claim for restoration of the vessel, and damages for her seizure and detention was also made by M. Alleye de Billon, the attorney and agents of the owners, Messrs. Raibaud and Labatut.

A *pro forma* decree in favour of the claimants was rendered in the District Court, and the case brought up by appeal to the Circuit Court at the last October Term.

The libel contained two counts. The *First* alleged that the *Eugenie* was, at the time of the seizure, a vessel of the United States, seized for a contravention of the acts of the United States prohibiting the slave trade. The *Second* alleged that the *Eugenie* was captured as a prize, and, at the time of seizure, was concerned and employed in the slave-trade, without alleging to what nation she belonged.

[*In the Circuit Court the cause was argued, and the following is an extract from the opinion of the learned Chief Justice*]

Having adverted to these preliminary considerations, I may now be permitted to proceed to the great points in controversy.

And the first question naturally arising out of the asserted facts, is, whether the African Slave-Trade be prohibited by the law of nations; for if it be so, it will not, I presume, be denied, that confiscation of the property ought to follow; for that is the proper penalty denounced by that law for any violation of its precepts; and the same reasons, which enforce that penalty ordinarily, apply with equal force to employment in this trade.*

I shall take up no time in the examination of the history of slavery, or of the question, how far it is consistent with the natural rights of mankind. That it may have a lawful existence, at least by way of punishment for crimes, will not be doubted by any persons who admit the general right of society to enforce the observance of its laws, by adequate penalties. That it has existed in all ages of the world, and has been tolerated by some, encouraged by others, and sanctioned by most, of the enlightened and civilized nations of the earth, in former ages, admits of no reasonable question. That it has interwoven itself into the municipal institutions of some countries, and forms the foundation of large masses of property in a portion of our own country, is known to all of us. Sitting, therefore, in an American court of judicature, I

* The *Fortuna*, 1 Dodson R. 81. *Madrazo v. Willes*, 3 Barn. and Ald. 353.

cannot be permitted to deny, that under some circumstances it may have a lawful existence; and that the practice may be justified by the condition or wants of society, or may form a part of the domestic policy of a nation. It would be unbecoming in me, here to assert, that the state of slavery cannot have a legitimate existence, or that it stands condemned by the unequivocal testimony of the law of nations.

But this concession carries us but a very short distance towards the decision of this cause. It is not, as the learned counsel for the government have justly stated, on account of the simple fact that the traffick necessarily involves the enslavement of human beings, that it stands reprehended by the present sense of nations; but that it necessarily carries with it a breach of all the moral duties, of all the maxims of justice, mercy, and humanity, and of the admitted rights, which independent christian nations now hold sacred in their intercourse with each other. What is the fact as to the ordinary, nay, necessary course of this trade? It begins in corruption, and plunder, and kidnapping. It creates and stimulates unholy wars, for the purpose of making captives. It desolates whole villages and provinces, for the purpose of seizing the young, the feeble, the defenceless and the innocent. It breaks down all the ties of parent, and children, and family, and country. It shuts up all sympathy for human suffering and sorrows. It manacles the inoffensive females, and the starving infants. It forces the brave to untimely death, in defence of their humble homes and firesides, or drives them to despair and self immolation. It stirs up the worst passions of the human soul, darkening the spirit of revenge, sharpening the greediness of avarice, brutalizing the selfish, envenoming the cruel, famishing the weak, and crushing to death the broken-hearted. This is but the beginning of the evils. Before the unhappy captives arrive at the destined market, where the traffick ends, one quarter part at least, in the ordinary course of events, perish in cold blood, under the inhuman or thoughtless treatment of their oppressors.

Strong as these expressions may seem, and dark as is the colouring of this statement, it is short of the real calamities

inflicted by this traffick. All the wars that have desolated Africa for the last three centuries, have had their origin in the slave-trade. The blood of thousands of her miserable children has stained her shores, or quenched the dying embers of her desolated towns, to glut the appetite of slave dealers. The ocean has received in its deep and silent bosom thousands more, who have perished from disease and want, during their passage from their native homes to the foreign colonies. I speak not from vague rumours, or idle tales, but from authentic documents, and the known historical details of the traffick—a traffick that carries away at least fifty thousand persons annually, from their homes and their families, and breaks the hearts, and buries the hopes, and extinguishes the happiness of more than double that number.* “There is,” as one of the greatest of modern statesmen has declared, “something of horror in it that surpasses all the bounds of imagination.”†

It is of this traffick, thus carried on, and necessarily carried on, beginning in lawless wars, and rapine, and kidnapping, and ending in disease, and death, and slavery—it is of this traffick, in the aggregate of its accumulated wrongs, that I would ask, if it be consistent with the law of nations? It is not by breaking up the elements of the case into fragments, and detaching them one from another, that we are to be asked of each separately, if the law of nations prohibits it. We are not to be told that war is lawful, and slavery lawful, and plunder lawful, and the taking away of life is lawful, and the selling of human beings is lawful. Assuming that they are so under circumstances, it establishes nothing. It does not advance one jot to the support of the proposition, that a traffick, that involves them all, that is unnecessary, unjust, and inhuman, is countenanced by the eternal law of nature, on which rests the law of nations.

Now the law of nations may be deduced, first, from the general principles of right and justice, applied to the concerns

* See State Papers of Congress, for 1821. Report on the Slave Trade, 9th February, 1821, p. 59.

† Mr. Pitt's Speech on the Slave-Trade, v. 1792.

of individuals, and thence to the relations and duties of nations ; or secondly, in things indifferent or questionable, from the customary observances and recognitions of civilized nations ; or, lastly, from the conventional or positive law, that regulates the intercourse between states. What, therefore, the law of nations is, does not rest upon mere theory, but may be considered as modified by the practice, or ascertained by the treaties of nations at different periods. It does not follow, therefore, that because a principle cannot be found settled by the consent or practice of nations at one time, it is to be concluded, that at no subsequent period the principle can be considered as incorporated into the public code of nations. Nor is it to be admitted, that no principle belongs to the law of nations, which is not universally recognised, as such, by all civilized communities, or even by those constituting, what may be called the Christian states of Europe. Some doctrines, which we, as well as great Britain, admit to belong to the law of nations, are of but recent origin and application, and have not, as yet received any public or general sanction in other nations ; and yet they are founded in such a just view of the the duties and rights of nations, belligerent and neutral, that we have not hesitated to enforce them, by the penalty of confiscation. There are other doctrines, again, which have met the decided hostility of some of the European states, enlightened as well as powerful, such as the right of search, and the rule, that free ships do not make free goods ; which, nevertheless, both Great Britain and the United States maintain, and in my judgment, with unanswerable arguments, as settled rules in the Law of Prize, and scruple not to apply them to the ships of all other nations. And yet, if the general custom of nations in modern times, or even in the present age, recognised an opposite doctrine, it could not, perhaps, be affirmed, that that practice did not constitute a part, or at least a modification, of the law of nations.

But I think it may be unequivocally affirmed, that every doctrine, that may be fairly deduced by correct reasoning from the rights and duties of nations, and the nature of moral

obligation, may theoretically be said to exist in the law of nations : and unless it be relaxed or waived by the consent of nations, which may be evidenced by their general practice and customs, it may be enforced by a court of justice, whenever it arises in judgment. And I may go farther and say, that no practice whatsoever can obliterate the fundamental distinction between right and wrong, and that every nation is at liberty to apply to another the correct principle, whenever both nations, by their public acts recede from such practice, and admit the injustice or cruelty of it.

Now, in respect to the African slave-trade, such as it has been described to be, and in fact is, in its origin, progress, and consummation, it cannot admit of serious question, that it is founded in a violation of some of the first principles, which ought to govern nations. It is repugnant to the great principles of christian duty, the dictates of natural religion, the obligations of good faith and morality, and the eternal maxims of social justice. When any trade can be said to have these ingredients, it is impossible that it can be consistent with any system of law, that purports to rest on the authority of reason or revelation. And it is sufficient to stamp any trade as interdicted by public law, when it can be justly affirmed, that it is repugnant to the general principles of justice and humanity.

Now, there is scarcely a single maritime nation of Europe, that has not, in the most significant terms, in the most deliberate and solemn conferences, acts, or treaties, acknowledged the injustice and inhumanity of this trade ; and pledged itself to promote its abolition. I need scarcely advert to the conferences at Vienna, at Aix-la-Chapelle, and at London, on this interesting subject, as they have been cited at the argument of this cause, and authenticated by our own Government, to show, what may be emphatically called the sense of Europe upon this point. France, in particular, at the conferences at Vienna, 1815, engaged to use "all the means at her disposal, and to act in the employment of those means, with all the zeal and perseverance due to so great and noble a cause." [the abolition of the slave-trade.] And accordingly, in the treaty

of peace between her and Great Britain, France, expressing her concurrence, without reserve, in the sentiments of his Britannic majesty with respect to this traffick, admits it to be “repugnant to the principles of natural justice, and of the enlightened age in which we live;” and, at a short period afterwards, the Government of France informed the British Government, that it had “issued directions in order, that on the part of France the traffick in slaves may cease from the present every where and for ever.” The conduct and opinions of great Britain, honourably and zealously, and I may add, honestly, as she has been engaged in promoting the universal abolition of the trade, are too notorious to require a pointed enumeration. She has, through her Parliament, expressed her abhorrence of the trade in the most marked terms, as repugnant to justice and humanity; she has punished it as a felony, when carried on by her subjects; and she has recognised through her judicial tribunals the doctrine, that it is repugnant to the law of nations. Our own country, too, has firmly and earnestly pressed forward in the same career. The trade has been reprobated and punished, as far as our authority extended, from a very early period of the Government; and by a very recent statute, to mark at once its infamy and repugnance to the law of nations, it has been raised in the catalogue of public crimes, to the bad eminence of piracy. I think, therefore, that I am justified in saying, that at the present moment the traffick is vindicated by no nation, and is admitted by almost all commercial nations as incurably unjust and inhuman. It appears to me, therefore, that in an American court of judicature, I am bound to consider the trade an offence against the universal law of society, and in all cases where it is not protected by a foreign government, to deal with it as an offence, carrying with it the penalty of confiscation.

And I cannot but think, notwithstanding the assertion at the bar to the contrary, that this doctrine is neither novel nor alarming. That it stands on principles of sound sense and general policy, and, above all, of moral justice. And I confess, that I should be somewhat startled, if any nation, sincere-

ly anxious for the abolition, and earnest in its duty, should interpose its influence to arrest its universal adoption.

There is an objection urged against the doctrine which is here asserted, that ought not to be passed over in silence, and that is, that if the African slave-trade is repugnant to the law of nations, no nation can rightly permit its subjects to carry it on, or exempt them from the obedience to that law; for it is said, that no nation can privilege itself to commit a crime against the law of nations by a mere municipal regulation of its own. In a sense the proposition is true, but not universally so. No nation has a right to infringe the law of nations, so as thereby to produce an injury to any other nation. But if it does, this is understood to be an injury, not against all nations, which all are bound or permitted to redress; but which concerns alone the nation injured. The independence of nations guarantees to each the right of guarding its own honour, and the morals and interests of its own subjects. No one has a right to sit in judgment generally upon the actions of another; at least to the extent of compelling its adherence to all the principles of justice and humanity in its domestic concerns. If a nation were to violate, as to its own subjects, in its domestic regulation, the clearest principles of public law, I do not know that that law has ever held them amenable to the tribunals of other nations for such conduct. It would be inconsistent with the equality and sovereignty of nations, which admit no common superior. No nation has ever yet pretended to be the *custos morum* of the whole world; and though abstractedly a particular regulation may violate the law of nations, it may sometimes, in the case of nations be a wrong without a remedy.

Then how stands judicial authority on the subject? It appears to me, speaking with all possible deference for those who may entertain a different opinion, that the case of the *Amedie** is directly in point; and, unless the principles there stated can be shaken, they must govern the case now in judg-

* 1 Aston's Rep. 242. 5 C. & D. 124. R. 54, n. 6.

ment. Sir Wm. Grant, in delivering the judgment of the Court of Appeals in the *Amedie*, after adverting to the former state of the British law on the subject of the African slave-trade, uses the following language, which I quote the more readily, as I know not, how in so concise and luminous a manner to convey the sentiments, which on this subject I deliberately entertain. “But,” says that eminent judge, “by the alteration which has since taken place in our law the question now stands upon very different grounds. We do now, and did at the time of this capture, take an interest in preventing that traffick, in which this ship was engaged. The slave-trade has since been totally abolished in this country, and our legislature has declared that the African slave trade is contrary to the principles of justice and humanity. Whatever opinion, as private individuals, we before might have entertained upon the nature of this trade, no court of justice could, with propriety, have assumed such a position, as the basis of any of its decisions, whilst it was permitted by our own laws. But we do now lay down as a principle, that this is a trade, which cannot, abstractedly speaking, be said to have a legitimate existence. I say abstractedly speaking, because we cannot legislate for other countries; nor has this country a right to control any foreign legislature, that may think proper to dissent from this doctrine, and give permission to its subjects to prosecute this trade. We cannot certainly compel the subjects of other nations to observe any other than the first and generally received principles of universal law. But thus far we are now entitled to act according to our law, and to hold that, *prima facie*, the trade is altogether illegal, and thus to throw on a claimant the burthen of proof, in order to show, that by the particular law of his own country he is entitled to carry on this traffick. As the case now stands, we think that no claimant can be heard in an application to a court of prize for the restoration of the human beings he carried unjustly to another country for the purpose of disposing of them as slaves. The consequence of making such proof it is not now necessary to determine: but where it cannot be

made, the party must be considered to have failed in establishing his asserted right. We are of opinion, upon the whole, that persons engaged in such a trade cannot, upon principles of universal law, have a right to be heard upon a claim of this nature *in any court*.* Such is the doctrine sanctioned by the highest Prize Court known to British jurisprudence. I consider it, as the High Court of Admiralty has considered it, as establishing the principle, that any trade contrary to the general law of nations, although not tending to, or accompanied with, any infraction of the belligerent rights of that country, whose tribunals are called to consider it, may subject the vessel employed in that trade to confiscation; and it matters not in what stage of the employment, whether in the inception or the prosecution, or the consummation of it, the vessel is arrested.† It has been said that this doctrine first arose in a case of capture, *juri belli*, and was applied by a Court of Prize. Be it so;—but the doctrine is not limited in its terms or purport to cases of this sort. The capture, as a belligerent capture, was tortious and without any reasonable cause; and the court admitted, that there had been no violation of belligerent rights. But it applied the doctrine upon principles of universal law, and asserted, that it might be applied to a claim of such a nature *in any court*. The *Fortuna*,‡ and the *Donna Marianna*,§ in which the doctrine was followed, were also cases of capture; but although it is pretty clear, that there were some lurking doubts as to the propriety of the doctrine in the mind of the Court, there was not the slightest attempt to place it upon any ground that limited it to the Prize jurisdiction. In the case of the *Diana*,§§ which, at the interval of nearly a year afterwards, called again for the application of the general doctrine, no such distinction was even alluded to, although that was clearly, in the judgment of Court itself, a case on the Instance side of the Court, where condemnation was directly sought on an information for a for

* The *Fortuna*, 1 Dodson R. 81, 65, 66.

† The *Fortuna*, 1 Dodson R. 81, 84, 86.

‡ 1 Dodson R. 91. § Dodson R. 95.

seizure for asserted employment in the slave-trade. It turned out upon an investigation of the facts, that the vessel was Swedish : and, as such, upon the supposition, that Sweden permitted the traffick to her subjects, restitution was decreed. but the Court unequivocally admitted the propriety of applying the doctrine to the case, if the Swedish law were proved to be deficient. I think I stand firm upon the position, that up to the period of these adjudications, no distinction like that now contended for, was in the contemplation of the Court : and certainly no such distinction can in reason be applied to the doctrine in the *Amedie*. Whatever, indeed, may be the extent of the belligerent right of search and visitation, it does not authorize a subsequent capture, unless for just cause of suspicion ; and if the search be in this respect unproductive, it cannot be, that the capture is less tortious on account of the exercise of this right, than it would be, if no such right existed. The capture is just as wrongful, as a seizure in time of peace would be, and no more. It violates the right of the foreign ship just as much, and no more, than such a seizure ; and if, notwithstanding such a tortious capture, the party may avail himself of a ground of condemnation for the breach of universal law, independent of belligerent rights, he may, for the same reason, avail himself of it in case of such a tortious seizure. In truth, however, the law looks not to niceties of this sort. If for any cause, precedent or subsequent, known at the beginning or known at the end, the property is condemned, the party is justified and retroactively for all purposes the capture, or seizure, or forcible possession, call it what you may, is deemed rightful and *bona fide*.

The case of the *St. Louis*,* which followed after a period of almost four years, has been pressed upon the attention of the court, and certainly is entitled to the most respectful and cautious examination. I will not yield to any person in reverence for the profound learning and talents of the accomplished Judge, by whom that decision was pronounced. His

* 2 Dodson R. 210.

judgments have been justly the admiration of Europe and America; and will be read for instruction, for beauty of illustration, for felicity of style, and for unambitious, but lofty principles, long after their illustrious author is gathered to the fathers, who have enlightened and improved mankind; as long indeed, in my humble belief, as the common language of his and our country shall indicate to mankind our common lineage. Still, however, it is my duty, painful and responsible as it may be, and with whatever hesitation and humility, when I am led to differ from other minds, with which I have not the least title to be brought in comparison: I say it is my duty to follow the dictates of my own judgment in all cases, where my judicial conscience is not already bound by the decisions of the highest appellate court of the government under which I sit.

The case of the *St. Louis* may be distinguished from that before the court, in several circumstances. The seizure was made at a time when no public ordinance of France prohibited the Slave-Trade, and before the recent discussions at Aix-la-Chapelle. Upon the very face of the information, the vessel was admitted to be French, and seized as such, and condemnation was sought upon two grounds, *first* the resistance of the right of search, of a British cruiser, in a time of peace; and *secondly*, because the trade was contrary to the laws of France, and the law of nations. The whole ground, therefore, excepting that of forfeiture under the law of nations, was removed from the cause, for no such right of search in point of law existed, and no such law of France in point of fact existed. And it is perfectly clear upon the doctrine of the other cases already cited, that it was necessary that a prohibitory law of France should concur with the public law of nations, before a foreign tribunal could apply the penalty of confiscation. The cause was, therefore, on its merits correctly decided in perfect harmony with the former cases. But the learned Judge, in a most elaborate and masterly manner, discusses the general question, and comes to the conclusion, that the African Slave-Trade is not a crime against the

law of nations ; and that the seizure of a foreign ship, engaged in that trade, although it is prohibited by the nation to which she belongs, cannot be rightfully made by a British cruiser, and that a suit for condemnation of such a ship cannot be rightfully maintained in a British court.*

The first observation that I am called upon to make, respecting this case, is, that I do not find, that the court anywhere attempts to distinguish between this and the preceding cases, by limiting the doctrine of rejecting claims for illegality of traffick, to cases of capture during war, or suits in the Prize jurisdiction. Nor does it occur to me, meaning to speak with the greatest diffidence of my own judgment, that a distinction of that nature would be quite consistent with what fell from the court in the case of the *Diana*.† In the next place, I find myself utterly at a loss to comprehend how the fundamental doctrine of the case of the *Amédée*, and the other cases already cited, that the Slave-Trade, abstractedly speaking, cannot have a legal existence, and that it is repugnant to the principles of universal law, and the law of nations, can consist with the unequivocal denial of the same doctrine, in the case of the *St. Louis*. I find myself driven, therefore, to the conclusion, that the last case is meant silently to abandon and repudiate the whole doctrine on which the former cases rest. In this conflict of authority and learning, of matured and deeply weighed decisions, it is no rashness to follow those, which on the whole seem built on the most solid grounds of justice, public policy, and principle. In the struggle, which my own mind has undergone upon this occasion, I cannot escape from the conclusion, that the reasoning of sir William Grant has not been overturned, even if it should be thought in any measure shaken ; and that if I were to adjudge otherwise, it would be following another authority against the dictates of my deliberate judgment.

And I think I may call in aid the opinion of a court of common law, though perhaps not, in general, the best qualified

* 1 Dobsen R. 91, 92. † 1 Dobsen R. 95.

court to entertain the discussion of questions of national law, to show, that the doctrine of the former cases meets the entire approbation of such tribunals. I allude to the case of *Madrazo v. Willes*,* where, though single expressions may appear to militate with my own views on this subject, the fair result of the opinions stands in perfect consistency with the doctrine of the *Amedie*.

But supposing, that the opinions already expressed by the court are as erroneous, as the counsel for the claimant contends them to be, and that the law of nations is to be exclusively derived from the practice of nations, and the practice is in favour of the African Slave-Trade ; still there remains another obstacle to the recovery of the property by the claimants, which must be displaced before his title is unimpeachable. And that is, that the African Slave-Trade stands prohibited by the positive municipal regulations of France. This has not been denied at the argument, at least to the extent of reaching a case, where the trade is attempted to be carried on to a French colony, which is exactly the case before the court, if any slave voyage was intended by the owners. The French ordinance of the 3th of January, 1817, comes up to this point, and purports to be made in execution of the obligations by treaty, to abolish the Slave-Trade, however inadequate it may be justly deemed for this purpose. But I think, independently of this document, (which is admitted to exist,) by the general principles already asserted, the *onus probandi* rests on the claimants, to establish the legitimate existence of the trade in France ; and more especially since her recent declarations in the face of all Europe that she had caused it to be every where abolished. They have not pretended to offer any proof on this point ; and the argument of their counsel proceeds upon the supposition of an actual prohibition.

It is said, that the cognizance of penalties and forfeitures for breaches of municipal regulations, exclusively belongs to

* 3 Barn. and Ald. 353,—and particularly the opinion of Mr. Justice Bay.

the tribunals of the nation by whom they are enacted. And this, in a general sense, with reference to the right to originate proceedings for the sole purpose of enforcing such penalties and forfeitures, may be true. But that any court may take notice of the laws of a foreign country, whether civil or penal, which come incidentally before it in the exercise of its general jurisdiction over persons or property, can admit of as little dispute. We know that the *lex loci* is often applied in courts of justice, to enforce rights and redress wrongs ; and that contracts and titles, which cannot have a legal existence in the country where they have their origin, are held void every where. In respect to mere municipal regulations, the general rule certainly is, that courts do not take notice of them with a view to their direct enforcement. It is often said, that no country takes notice of the revenue laws of a foreign country, or holds itself bound to repudiate commercial transactions which violate them. But this is a rule adopted from a motive of policy or comity ; and is not an essential ingredient in any system of the law of nations. If any nation were disposed to discountenance any smuggling, in violation of the laws of a foreign country, and in cases coming regularly before its own courts, were to refuse to recognise any rights of property founded on such violations, I am not able to perceive what just ground of complaint the offended nation could have against such conduct. It seems to me that it might with more justice complain of the refusal to enforce such laws, and to discountenance such violations. But where a title to property originates in what a nation deems in its own subjects a public crime, more especially if it be an aggravated crime, founded on fraud and rapine ; and it finds that another nation deems it a crime of a like nature, and prohibits it as such, and confiscates the property of its subjects engaged in the commission of it, I do not perceive why such property, so polluted by crime, should, if it falls into the custody of a court of a former nation, be so sacred from judicial touch, that it must be restored to the wrong-doer. And I would ask, where is the authority that requires such a court

to act in this manner, when the public policy of its own, as well as of the foreign government is avowedly engaged in endeavouring to suppress that crime ? If, in a case before this court, acting *in rem*, a title to property, founded on theft or other municipal crime, or on a fraud committed in a foreign country, were set up, until my judicial conscience is better instructed, I should have extreme difficulty in recognising such a title, if the property was once legally in the custody of the court.

In the case now before me, on the face of the libel, the court certainly has jurisdiction; for if the allegation, as to the property being engaged in the Slave-Trade, against our laws, be well founded, it justifies condemnation. But jurisdiction does not depend upon the event of the suit, but upon the right to entertain the suit, and proceed by enquiry to settle its merits. In this respect, the case before me stands differently from that of the *St. Louis*. It is, therefore, in the investigation of the merits of this case, that I am met by the title of French subjects to the property; and that title, if the vessel be engaged in the Slave-Trade, is a title connected with a crime against France, and which by French law becomes forfeited. In this posture of the cause, it does not occur to me, that any principle of general justice, or of national comity, or of universal law, requires this court to surrender up the property to the claimants, however well it might be disposed to surrender it to the sovereign of France. If, therefore, this ground alone were before the court, as at present advised I should incline to reject the claim, for the breach of this municipal law of France, which our country recognises as a breach, not of mere *positive law*, but of the immutable principles of justice.

If I am asked, what would be the predicament of this cause under the views, which have been suggested, I answer, that if the vessel be not American, engaged in a traffick contravening our laws, Lieut. Stockton and his associates can have no title to seek condemnation for any interest of their own; for a share in the forfeiture accrues to them only, when the

case is reached by our laws ; and the libel so far as it is founded on these allegations, must be dismissed. Then as to the claimants, their claim being rejected, there would be no person judicially before the Court to claim restitution. The property, then, must either be condemned to the United States generally, as unclaimed property, or forfeited property, upon principles analogous to those adopted in the *Etrusco*;* or it must remain in the custody of the Court, to be delivered up to the sovereign of France, if he should choose to interpose a claim, or assert a right to proceed against it in his own Courts for the supposed forfeiture.

It appears to me, that the latter is the true course. It enables the foreign sovereign to exercise complete jurisdiction over the case, if he shall prefer to have it remitted to his own courts for adjudication. It enforces the policy, common to both nations, of repressing an odious traffick, which is denounced by both. It makes our own country, not a principal, but an auxiliary, in enforcing the interdict of France, and subserves the great interests of universal justice. I am not aware of any obstacle in the constitution of a court of admiralty, proceeding *in rem*, to the adoption of such a practice ; and I am greatly mistaken, if it does not carry in its bosom the seeds of peace and conciliation, instead of animosity and recrimination.

Thus far I have proceeded in the cause without reference to any other claims, but those asserted in the original libel and answer. But at a late period in this cause, by direction of the President, a suggestion has been filed by the District Attorney, expressing a willingness to yield up the vessel to the French Government, or its consular agent, for the purpose of remitting the cause for ultimate adjudication to the domestic forum of the sovereign of the owners. To a suggestion of this nature this court is bound to listen with the most respectful attention. It is understood to be, not a direction to the court, for that is beyond the reach of executive authority, by an intimation of the wishes of the Government,

* Rob. R. 262,—note (a.)

so far as our own rights are concerned, to spare the court any further investigation. If it had seemed fit to all the parties, whose interests are before the court, to agree to the course held out by this suggestion, it would have relieved my mind from a weight of responsibility, which has most heavily pressed upon it. But the French claimants resist this course, and require, that the property should be delivered over to their personal possession, instead of to the possession of their sovereign. Under such circumstances this court must follow the duty prescribed to it by law, independently of any wishes of our own Government or of France. I have been compelled, therefore, reluctantly to travel over the whole merits of the cause, and to decide it with reference to the French owners, upon the great principles on which it has been argued.

After listening to the very able, eloquent, and learned arguments delivered at the bar on this occasion—after weighing the authorities which bear on the case, with mature deliberation,—after reflecting anxiously and carefully upon the general principles which may be drawn from the law of nations to illustrate or confirm them, I have come to the conclusion, that the slave-trade is a trade prohibited by universal law, and by the law of France, and that, therefore, the claim of the asserted French owners must be rejected. That claim being rejected, I feel myself at perfect liberty, with the express consent of our own Government, to decree, that the property be delivered over to the consular agent of the king of France, to be dealt with according to his own sense of duty and right.

No one can be more sensible than myself of the real magnitude and intricacy of the questions involved in this cause. It becomes me, therefore, to speak with great distrust and diffidence of my own judgment respecting its merits. But I think I have a right to say, that the American courts of judicature are not hungry after jurisdiction in foreign causes, or desirous to plunge into the endless perplexities of foreign jurisprudence. If I could have had my choice of cases, this class is not that which would have been selected from peo-

her favour. But it is to be remembered, that while the court is not rashly to engage in asserting jurisdiction over foreign causes, from the odium, which is justly attached to a traffick conceived in atrocious and unfeeling cruelty, and stained and sealed with blood; it has also a public duty to perform, from which it dare not shrink, to pronounce its own judgment of the law, and to leave to more wise and learned minds to correct any errors into which it may inadvertently have fallen.

A brief sketch of the several cases cited on the part of the libellants, and of the claimants, and noticed by the Court, is here made, for the use of such of our readers as may not have those cases within their reach. The most material facts only are stated, and such parts of the judgments, as apply most strongly to the case of the *Eugenie*, excepting the case of the *Amedie*, which being the leading one, the judgment of the Court in that is given entire.

THE AMEDIE, 1 *Acton's R.* 210.

This was an American vessel, captured by a British cruiser in the latter part of the year 1807, on her way from Bonny, on the coast of Africa, to Matanzas, in the island of Cuba, with 105 slaves on board. She was libelled in the Vice-Admiralty Court of Tortola, and condemned as engaged in an illegal trade. From this sentence an appeal was prosecuted to the High Court of Appeals.

The first reason assigned by the captors for the condemnation of this vessel was, that "this ship was proceeding from Africa, with a cargo there laden, to Matanzas, in the island of Cuba, being part of a colony then belonging to His Majesty's enemies, contrary to the prohibitions of the order of His Majesty in Council, of the 11th day of November, 1807."

The second reason assigned was, that, "the voyage was contrary to the prohibitory laws of the United States of America, made for abolishing the slave-trade, which had been of

herally notified to the lords of Appeal by the act of the American Government in the case of the *Chance, Brown*, master ; and although such laws of a foreign state may not amount to a direct or substantive ground of condemnation in a Court of Prize, yet they may and ought to exclude an American claimant from the benefit of those relaxations of the law of war, which, in favour of neutral states, have been introduced by his majesty's instructions, in regard to their commerce with the colonies of his majesty's enemies ; a privilege which can only be understood to be granted to neutral governments as a branch of their national commerce, and not as an invitation to lawless individuals to engage in a trade which the neutral state itself has prohibited, and desires to discourage."

The third ground of condemnation assigned by the captors was, "that *Scott*, the supercargo and leader of the slaves, is admitted to have an interest therein, which is liable to confiscation, he being a British subject, by the statute of 46 Geo. III. cap. 52."

JUDGMENT. *Sir William Grant*. In the case of the *Amedie*, it must be considered, on the evidence produced to the court, and from the situation of this vessel at the time of capture, that she was employed in carrying slaves from the coast of Africa to a Spanish colony. We are of opinion this appears to have been the original design and purpose of the voyage, notwithstanding the pretence set up to veil the real intention of the proprietor. The American claimant, however, complains of the injury and interruption he has sustained in carrying on his usual and lawful trade, that of importing slaves for the purpose of sale, and calls upon the Prize court to redress the grievance, and repair the damage he has sustained by the capture and unjust detention of this vessel.

On the different occasions when cases of this description formerly came before the court, the Slave Trade was liable to considerations very different from those which now belong to it. So far as respected the transportation of slaves to the colonies of foreign nations, this trade had been prohibited by the laws of America only : this country had taken no notice

of that prohibition; our law sanctioned the trade which it was the policy of the American law first to restrict, and finally to abolish. It appeared to us, therefore, difficult to consider the prohibitory law of America in any other light than as one of those municipal regulations of a foreign state, of which this court could not take any cognizance, and of course could not be called upon to enforce; nor could it possibly bar a party in a court of prize. But by the alteration which has since taken place in our law, the question stands now upon very different grounds. We do now, and did at the time of this capture, take an interest in preventing that traffick in which this ship was engaged. The Slave-Trade has since been totally abolished in this country, and our legislature has declared the African Slave-Trade is contrary to the principles of justice and humanity. Whatever opinions, as private individuals, we before might have entertained upon the nature of this trade, no court of justice could with propriety have assumed such a position as the basis of any of its decisions, whilst it was permitted by our own laws; but we do now lay down as a principle, that this is a trade which cannot, abstractedly speaking, be said to have a legitimate existence; I say abstractedly speaking, because we cannot legislate for other countries; nor has this country a right to control any foreign legislature that may think proper to dissent from this doctrine, and give permission to its subjects to prosecute this trade. We cannot, certainly, compel the subjects of other nations to observe any other than the first and generally received principles of universal law. But thus far we are now entitled to act, according to our law, and to hold that, *prima facie*, the trade is altogether illegal, and thus to throw on a claimant the whole burthen of proof, in order to show that by the particular Law of his own country, he is entitled to carry on this traffick. As the case now stands, we think that no claimant can be heard in an application to a court of Prize, for the restoration of the human beings he carried unjustly to another country, for the purpose of disposing of them as slaves. The consequence of making such proof, is not now necessary to

determine ; but where it cannot be made, the party must be considered to have failed in establishing his asserted right. We are of opinion, upon the whole, that persons engaged in such a trade cannot, upon principles of universal law, have a right to be heard upon a claim of this nature, in any court. In the present case, the claimant does not bring himself within the protection of the law of his own country ; he appears to have been acting in direct violation of that law which admits of no right of property such as he claims : ours is express and satisfactory upon the subject.

Where, therefore, there is no right established to carry on this trade, no claim to restitution of this property can be admitted. We are hence of opinion, the sentence of the court below was valid ; and ought to be affirmed.

THE FORTUNA.—1 *Dodson's R.* 34.

This was the case of a vessel, bearing the Portuguese flag, captured by a British cruiser, in October, 1810, and sent into Plymouth as a prize.

It appeared in evidence, that she sailed from New-York under American colours, in the month of July, 1810 ; and ostensibly owned by an American citizen ; that she went to Madeira, landed part of her cargo, and about a week before her departure from thence, a bill of sale of the ship was executed to a native of Madeira, a Portuguese subject ; and in consequence of this sale, Portuguese papers obtained, and the Portuguese flag assumed. It appeared, from an inspection of the vessel, and other evidence in the case, that the object of the voyage was to procure a cargo of slaves, on the coast of Africa.

JUDGMENT. *Sir William Scott.*—“ An American ship, *quasi American*, is entitled, upon proof, to immediate restitution, but she may forfeit, as other neutral ships may, that title, by various acts of misconduct, by violation of belligerent rights, most clearly and universally. But though this prize law looks primarily to violations of belligerent rights as grounds of con-

seizure in vessels not actually belonging to the enemy, it has extended itself a good deal beyond considerations of that description only. It has been established by recent decisions of the Supreme Court, that the Court of Prize, though properly a court purely of the law of nations, has a right to notice the municipal law of this country, in the case of a British vessel, which, in the course of a prize proceeding, appears to have been trading in violation of that law, and to reject a claim for her on that account. That principle has been incorporated into the prize law of this country within the last twenty years, and seems now fully incorporated. A late decision, in the case of the *Amedie*, seems to have gone the length of establishing a principle, that any trade contrary to the general law of nations, although not tending to, or accompanied with, any infraction of the belligerent rights of that country, whose tribunals are called upon to consider it, may subject the vessel employed in that trade, to confiscation. The *Amedie* was an American ship, employed in carrying on the Slave-trade; a trade, which this country, since its own abandonment of it, has deemed repugnant to the law of nations, to justice, and humanity, though without presuming so to consider and treat it, where it occurs in the practice of the subjects of a state which continues to tolerate and protect it, by its own municipal regulations: but it puts upon the parties who are found in the occupations of that trade, the burden of showing that it was so tolerated and protected; and on failure of producing such proof, proceeds to condemnation, as it did in the case of that vessel. How far that judgment has been universally concurred in and approved, is not for me to inquire. If there be those who disapprove it, I am certainly not at liberty to include myself in that number, because the decisions of that court, bind authoritatively the judicial conscience of this; its decisions must be conformed to, and its principles practically adopted. The principle laid down in that case, appears to be, that the Slave-Trade, carried on by a vessel belonging to a subject of the United States, is a trade, which, being unprotected by the domestic

regulations of their legislature and government, subjects the vessel engaged in it, to a sentence of condemnation. If the ship should, therefore, turn out to be an American, actually so employed, and it matters not, in my opinion, in what stage of the employment, whether in the inception or the consummation of it, the case of the *Amedie* will bind the conscience of this court to the effect of compelling it to pronounce a sentence of confiscation.

"I can have no doubt of her (the *Fortuna's*) real character; and under the authority of the case of the *Amedie*, I condemn her and her cargo."

THE *DONNA MARIANNA*.—1 *Dodson's R.* 91.

This was the case of a vessel seized as she was proceeding to Cape Coast, for a cargo of slaves, under the Portuguese flag. It appeared in evidence, that she was originally an American vessel, had been *bona fide* sold to a British subject, and was now claimed as Portuguese property, on the ground that she had been since conveyed to a Portuguese merchant. The Court condemned the ship, as being a British vessel, engaged in the Slave-Trade.

Sir William Scott. "It would be a monstrous thing, where a ship admitted to have been at one time British property, is found engaging in this traffick, to say, that however imperfect the documentary evidence of the asserted transfer may be, and however startling the other circumstances of the case, no inquiry shall be made into the real ownership. Here are on board this vessel only papers of mere form, and which are in contradiction with each other, leaving the whole transaction of the transfer in great doubt and obscurity, and if the court were to be prohibited under such circumstances, from inquiry into the reality of the Portuguese title, one sees how easily the provisions of the legislature would be defeated.

"I can have no doubt that this court is bound judicially to consider this as a British vessel, and that this Portuguese disguise has been assumed for the mere purpose of protecting

the property of British merchants in a traffick which it was not lawful for them to engage in."

The DIANA.—*1 Dodson, 95.*

This was the case of a vessel under Swedish colours, seized at Cape Mount, on the coast of Africa, on the 10th of September, 1840, by a British cruiser, and carried to Sierra Leone, where proceedings were instituted against the vessel and cargo. At the time of the seizure, she had exchanged her outward cargo for 120 slaves, part of which she had received on board. An information was filed on the part of the captors, and a claim made for the ship and cargo as the property of a subject of the king of Sweden. The vessel and cargo was condemned in the Vice-admiralty Court at Sierra Leone, from which an appeal was prosecuted to the High Court of Admiralty.

JUDGMENT. *Sir William Scott.* "The condemnation (in the Vice-court of Admiralty) also took place on a principle which this court cannot in any manner recognise, inasmuch as the sentence affirms, 'that the Slave-Trade, from motives of humanity, hath been abolished by most civilized nations, *and is not at the present time legally authorized by any.*' This appears to me to be an assertion by no means sustainable.

"Our own country, it is true, has taken a more correct view of the subject, and has decreed the abolition of the slave-Trade, as far as British subjects are concerned; but it claims no right of enforcing its prohibition against the subjects of those states which have not adopted the same opinion with respect to the injustice and immorality of the trade. The principle which has been extracted by the judge of the court below, from the case of the *Amedie*, is the reverse of the real principle there laid down by the superiour court; which was, that where the municipal laws of the country to which the parties belong, have prohibited the trade, the tribunals of this country will hold it to be illegal, upon the general principles of justice and humanity, and refuse resti-

tution of the property : but on the other hand, though they consider the trade to be generally contrary to the principles of justice and humanity, where not tolerated by the laws of the country, they will respect the property of persons engaged in it under the sanction of the laws of their own country. The Lords of Appeal did not mean to set themselves up as legislators for the whole world, or presume in any manner to interfere with the commercial regulations of other states, or to lay down general principles that were to overthrow their legislative provisions with respect to the conduct of their own subjects.

“ The sanction of the colonial governor has been produced by the claimants, and I am clearly of opinion, under this authority standing before me, and standing uncontradicted, that Sweden has not abolished the Slave-Trade.”

On this ground, the sentence of the Vice-admiralty Court was reversed.

THE SCHOONER PLATTSBURGH.

This vessel sailed from the port of Baltimore, in December, 1819. In April following, she was found on the Coast of Africa, engaged in the Slave-Trade, with an American supercargo on board, all her officers American, with the exception of one, and with a cargo which had recently left the United States. She was captured by the American ship of war *Cyane*, for being engaged in the Slave-Trade, in violation of the laws of the United States, and was libelled in the district court of the United States for the district of New York. A claim was put in by Manuel Gonzales, styling himself Captain, on behalf of Juan Marina, of Santiago de Cuba, on the pretence that at the time of the capture the vessel was the property of a Spanish subject ; papers were produced to show that she was regularly documented as a Spanish vessel, and also a bill of sale, conveying her to the said Marina.

The vessel was condemned on the grounds that she was,

at the time of seizure, American property, and that the voyage originated in a port of the United States ; but the learned Judge, in the course of his able opinion, made some suggestions in relation to the law of nations, applicable to a case of this description, which were cited by the counsel for the libellants, on the arguments made in the case of the *Eugenie*.

Fan Ness, J. says, "Still another view may be taken of this subject. By the laws of the United States, and by those of great Britain, the Slave-Trade has long been prohibited to their respective citizens and subjects. Great and serious difficulties in the execution of these laws have hitherto tended to defeat the just and benign purposes for which they were enacted. Although they might operate to the exclusion of their own people from a direct participation in this criminal pursuit, yet it was in many instances indirectly prosecuted, under all the forms which fraud and ingenuity could devise ; and while the other nations of Europe sanctioned this traffick, but little seemed to be accomplished in the great cause they were intended to support.

The principal powers of Europe have, however, successively abolished this trade, and the period has, I think, arrived, when courts of admiralty may safely hold that, *prima facie*, this trade is illegal, and impose upon the claimant of the captured property, the necessity of showing his exemption from the general rule. If he claims to be pursuing a trade permitted by the municipal laws of his own country, he must show it."

The application of a still broader principle, it is conceived, may properly be submitted to the consideration of courts-instituted for the administration of national law. The United States, and all the nations of Europe, with the exception of Portugal, have now prohibited the slave-trade : the prohibition, therefore, is nearly universal ; and it is pressed upon their serious deliberation, whether this traffick may not now be pronounced, as well contrary to the law of nations as of nature. A great portion of what has long been considered the law of nations, has received a less general recognition, and is founded on a basis not more sound or solid.

MADRAZO v. WILLES, 3 *Barnewall and Alderson*, 352.

This was an action brought by the plaintiff as the owner of a slave ship and of the slaves on board of her, against the defendant who was a captain in the British navy, for damages for the seizure of the said vessel and slaves. A verdict was obtained for the plaintiff, and a motion made on behalf of the defendant, for a rule *nisi* to reduce the damages, which was refused on the ground that the slave-trade was allowed by the Spanish government. Those parts of the opinions of the judges applicable to the case of the *Eugenie*, being already quoted in the argument on behalf of the claimants, and commented on by the court, it is not thought necessary to restate them here.

THE LOUIS.

This was the case of a French vessel which sailed from Martinique on the 30th of January, 1816, destined on a voyage to the coast of Africa and back, and was captured ten or twelve leagues to the southward of cape Mesurado, by an English cutter, on the 14th of March in the same year, and carried to Sierra Leone. She was proceeded against in the vice-admiralty court of that colony, and the information pleaded, 1st, that the seizers were duly and legally commissioned to make captures seizures : 2d, that the seizure was within the jurisdiction of the court : 3d, that the vessel belonged to French subjects or others, and was fitted out, manned, and navigated for the purpose of carrying on the African slave-trade, after that trade had been abolished by the internal laws of France, and by the Treaty between Great Britain and France : 4th, that the vessel had bargained for twelve slaves at Mesurado, and was prevented by the capture alone from taking them on board : 5th, that the brig being engaged in the slave-trade, contrary to the laws of France, and the law of nations, was liable to condemnation, and could derive no protection from the French or any other flag. 6th, that the crew of the brig resisted the English cutter and piratically killed eight of

her crew, and wounded twelve others. 7th, that the vessel being engaged in this illegal traffick, resisted the king's duly commissioned cruisers, and did not allow of search, until overpowered by numbers. And 8th, that by reason of the circumstances stated, the vessel was out of the protection of any law, and liable to condemnation.

The ship was condemned in the vice-admiralty court at Sierra Leone, and from this decision an appeal was made to the high court of admiralty, and the decision there reversed. We only extract from the judgment of Sir William Scott, that part which discusses the question, how far this traffick, as carried on by France, was to be considered as contrary to the law of nations, and the vessel on that ground to be condemned. And it is to be observed here, that the French ordinance on this subject was not at that time in operation.

JUDGMENT, *Sir William Scott*. “ And I say legally criminal, because neither that court nor any other, can carry its private apprehensions, independent of law, into its public judgments on the quality of actions. It must conform to the judgment of the law upon that subject; and acting as a court in the administration of law, it cannot attribute criminality to an act where the law imputes none. It must look to the legal standard of morality; and upon a question of this nature, that standard must be found in the law of nations as fixed and evidenced by general and ancient and admitted practice, by treaties, and by the general tenour of the laws and ordinances, and the formal transactions of civilized states; and looking to these authorities, I find a difficulty in maintaining that the traffick is legally criminal.

Let me not be understood, or mis-represented as a professed apologist for this practice, when I state facts which no man can deny, that personal slavery, arising out of forcible captivity, is coeval with the earliest periods of the history of mankind, that it is found existing, (and as far as appears without animadversion) in the earliest and most authentic records of the human race, that it is recognised by the codes of the most polished nations of antiquity that under the light of chris-

nanny itself, the possession of persons so acquired, has been in every civilized country invested with the character of property, and secured as such, by all the protections of law, that solemn treaties have been framed, and national monopolies eagerly sought, to facilitate and extend the commerce in this asserted property : and all this, with all the sanctions of law, public and municipal, and without any opposition, except the protests of a few private moralists, little heard, and less attended to, in every country, till within these very few years, in this particular country. If the matter rested here, I fear it would have been deemed a most extravagant assumption in any court of the law of nations, to pronounce that this practice, the tolerated, the approved, the encouraged object of law, ever since man became subject to law, was prohibited by that law, and was legally criminal. But the matter does not rest here. Within these few years a considerable change of opinion has taken place, particularly in this country. Formal declarations have been made, and laws enacted in reprobation of this practice, and pains, ably and zealously conducted, have been taken to induce other countries to follow the example ; but at present with insufficient effect : for there *are* nations which adhere to the practice, under all the encouragement which their own laws can give it. What is the doctrine of our courts of the law of nations relative to them ? Why, that their practice is to be respected ; that their slaves, if taken, are to be restored to them ; and if not taken under innocent mistake, to be restored with costs and damages. All this surely, upon the ground, that such conduct on the part of any State, is no departure from the law of nations ; because, if it were, no such respect could be allowed to it, upon an exemption of its own making ; for no nation can privilege itself to commit a crime against the law of nations by a mere municipal regulation of its own. And if our understanding and administration of the law of nations be, that every nation, independently of treaties, retains a legal right to carry on the traffick, and that the trade carried on under that authority, is to be respected by all tribunals, foreign as well as domestic ;

is not easy to find any consistent grounds on which to maintain, that the traffick, according to our views of that law, is criminal.

Against the subjects of countries, which have issued declarations hostile to the trade, the courts have not unfairly applied the *argumentum ad homines*. At the same time, it is impossible not to feel (and with concern) that if the real understanding of the law, both in this country and others, is to be collected from public acts, as well as from public declarations, it will at least be difficult to determine with certainty and precision, what that understanding really is ; some parts of their systems looking one way, and some another."

FRENCH ORDINANCE.

Department de la Marine et des Colonies.

ORDONNANCE DE ROI.

LOUIS, par la grace de Dieu, Roi de France et de Navarre : Voulant pourvoir au cas ou il seroit contravenu à nos ordres concernant l'abolition de la Traité des Noirs :

Sur le rapport de notre Ministre Secrétaire d'Etat de la Marine et des Colonies.

Nous avons ordonné et ordonnons ce que suit :

ARTICLE I.—Tout Batiment qui tenteroit d'introduire *dans une de nos Colonies* des Noirs de Traité, soit François soit Etranger, sera confisqué, et le Capitaine, s'il est François, in-cerdit de tout commandement.

Sera également confisqué, en pareil cas, toute la partie de la cargaison qui ne consisteroit pas en Esclaves ; a l'égard des Noirs, ils seront employés dans la Colonie aux travaux d'utilité publique.

ARTICLE II.—Les contraventions prévues dans l'article précédent seront jugées dans la même forme que les contraventions aux lois et réglemens concernant le commerce étranger.

Quant aux Produits des confiscations prononcées en conformité du même article, ils seront acquis et appliqués de la même manière que sont les produits des confiscations pronon-

cees en nature de contraventions aux lois sur le commerce étranger.

Article III.—Notre Ministre Secrétaire d'Etat de la Marine et des Colonies est chargé de l'exécution de la présente Ordonnance.

Donné à Paris, en notre Château des Tuileries, le 8 Janvier, de l'an de grace 1817, et de notre Règne le 22d.

(Signé) LOUIS.

Par le Roi,

(Signé) LE Vte DE BOUCHAGE.

Pour Copie conforme,

Le Ministre Secrétaire d'Etat de la
Marine et des Colonies.

(Signé) LE Vte DE BOUCHAGE.

Pour ampliation,

Le Ministre Secrétaire d'Etat de la
Marine et des Colonies.

(Signé) LE Vte DE BOUCHAGE.

No. VIII.

The condition of certain Africans in Georgia, referred to in a former Report of American Colonization Society.

The Board of Managers have lately received the Second Annual Report of the Putnam Auxiliary Society of Georgia, from which the following interesting extract is subjoined.

"As a matter of considerable interest to those who care for the moral standing of Georgia, the managers of the Putnam Society would call the attention of their fellow-citizens, and more particularly, the attention of his Excellency the Governor, and of the Legislature of Georgia, to the act of Congress, and of our State, bearing upon several hundred Africans in certain predicaments, and to the proceedings of the Society in relation to some of them. The managers of the Putnam Society are the more emboldened to do this, inasmuch as they recognize in his Excellency the Governor, not only the person authorized and requested by our Legislature, in their act of the 19th December, 1814, 'to aid, on certain conditions, in promoting the benevolent views of the Colonization Society, in such manner as he may deem expedient?' but they also recognize in him, one of the earliest members of the Milledgeville Auxiliary Society, &c. In the exercise of their present Legislative duty of

probable members of the next, many of the gentlemen who, so early after the formation of the Parent Society, concurred in the favourable recognition of its existence and object, and requested the Governor, conditionally, to 'aid' in promoting their 'benevolent views' as aforesaid."

"This topic may be very ably introduced by the following extract from the Second Annual Report of the Parent Society.—'One of the grounds assumed by the select committee [of the House of Representatives of the United States] in support of the object of the memorial, of the Colonization Society, is derived from its tendency to facilitate the execution of the laws of the United States prohibiting the importation of slaves, in a manner consistent with the spirit of the laws themselves, *the long established policy of the southern States*, and the genius of the Federal Constitution. It is well recollected, that as soon as Congress acquired the constitutional power of prohibiting the importation of slaves, which was on the 1st of January, 1808, they followed the example of the several States, in imposing heavy penalties upon the authors of this inhuman traffick. The first section of the act of the 2d March, 1807, declares that, 'after the above period, it should not be lawful to import into the United States, or the Territories thereof, from any foreign country, any negro, mulatto, or person of colour, with intent to hold, sell, or dispose of such person as a slave, or to be held to service or labour.' The act subjects not only the American vessel, employed in violating the laws, to *condemnation*, but 'every person engaged in building, fitting out, equipping, loading, or otherwise preparing, or sending out such vessel, knowing, or intending it to be so employed, to the forfeiture of *twenty thousand dollars*.' A subsequent section makes it 'a *high misdemeanor* for any person to transport from any foreign country, and sell any person of colour, within the jurisdiction of the United States.' Upon conviction it subjects the offender to 'an imprisonment of not less than five, nor more than ten years, and to fine not less than one, nor more than ten thousand dollars.'—The purchaser or seller of any such person, so imported, who shall knowingly purchase or sell the same, is subjected to a forfeiture of *eight hundred dollars*, for every person of colour "so purchased or sold." To this section, the following extraordinary proviso is annexed: "that the aforesaid forfeiture shall not extend to any seller or purchaser of any negro, mulatto, or person of colour, who may be sold or disposed of *in virtue of any regulation which may be hereafter made by any of the Legislatures of the several States, on that respect, in pursuance of this act, and the Constitution of the United States.*"

"The authority of the State Legislatures, to which the proviso refers, is conveyed to them by a clause of the section of this act next preceding the last. It declares that 'neither the importer, nor any person or persons claiming from or under him, shall hold any right or title whatsoever,

to any negro, mulatto, or person of colour, nor to the service or labour of any slave, who may be imported or brought within the United States, or territories thereof in violation of law, *but the same shall remain subject to any regulations not contravening the provisions of this act, which the Legislatures of the several States or Territories, at any time hereafter, may make, for disposing of* *such negro, mulatto, or person of colour.*"

A recent act of the Legislature of Georgia (14th Dec. 1817,) will show what construction has been given to this authority.

"The second section of the act empowers the Governor to sell, for the benefit of the State, any negro, mulattoes, or persons of colour, brought into it, in violation of the laws of the United States; and sales to a considerable amount have accordingly been made," &c.

"The managers would be unjust, however, as well as ungrateful, if they passed unmentioned, the last section of this act, which provides, 'that it, previous to any sale of any such persons of colour, the Society for Colonizing free persons of colour within the United States, will undertake to transport them to Africa, or any other foreign place which they may procure as a colony for free persons of colour, at the sole expense of the Society, and shall likewise pay to his Excellency the Governor, all expenses incurred by the State, since they have been captured and condemned; he is authorized and requested to, and in promoting the benevolent views of the Society in such manner as he may deem expedient.'

"The managers [of the Parent Society] heard, with deep regret, of the execution of the second section of this act, in the course of the past year, (1818) without having it in their power to avail themselves of the recognition of the existence and object of the American Society, in the sequel of the act, and afford relief to the unfortunate beings whom violence and fraud had torn from the bosom of their native country, and a defect in the laws of the United States has consigned to hereditary slavery in the bosom of this. Surely, when the authority granted to the several States by the act of Congress which had been recited, is thus exercised, it is without regard to the limitations which accompany the commission. So far from such an act of power being 'in pursuance of the act of Congress,' it is in direct contravention, not only of its positive and express provisions, but of its very spirit and title."

Whether the opinion of the Parent Society is correct or not, the managers of the Patrim Society will not pretend it. But its introduction is useful to show the view which formed one of our views at a distance, of a part of our State policy. "It is an act," continue the managers of the Parent Society, "to prohibit, and to 'abolish,' the 'importation of slaves.' To contend that the consignment of negroes and coloured foreigners to perpetual slavery, is 'in pursuance of the Constitution of the United States,' is to cast reproach upon that instrument, which it does not merit.

"But if the Legislature of Georgia (continue the managers of the Colonization Society) have overstepped the authority with which the act of Congress invested them, in a case, to their judgment, it is presumed, of apparent necessity, *a necessity which they ought to avoid*" by inviting the interposition of the Colonization Society, "it becomes the Government of the United States, which created the evil, to provide for it an adequate remedy."

In pursuance of the invitation of the Legislature of Georgia above said, it appears from the posthumous communication of Governor Rabun, at the annual session of 1819, that about April of that year, the agent of the Colonization Society arrived in Milledgeville, clothed with competent authority to ask, receive, and transport them, (certain Africans advertised to be sold in May, of that year, for the benefit of the State,) to their native country, free from charge or expense. "The proposition," says Governor Rabun, "was marked with so much liberality and benevolence, that, without much hesitation, I agreed to deliver them over to the order of that humane Society, so soon as the Court of the United States shall adjudge them to be subject to the control of the constituted authorities of this state."

"The libel, in the name of Miguel de Castro, against ninety-five African slaves, illegally introduced into this State, and the claim set up to the same, by William Bowen," says Governor Clark, in his message of 7th November, 1820, "have been dismissed in the district court where they were depending. The attorney for the State in this case, being of the opinion, when called on by the executive, that it was necessary that those on hand should be continued subject to the law of the State, by an adjournment in the district court; he was therefore requested to institute such proceedings as were necessary, which are now pending in that court." From verbal information of gentlemen entitled to credit, it appears that the proceedings are still pending. So that the proceedings in the several cases instituted in relation to the Africans, will have extended from a short time after their seizure in 1818, to the session of the district court of the United States for the district of Georgia, in November next. Now can this be deemed a misfortune; as one more opportunity will present itself, at the annual session next fall, for the humanity, not to say the justice, of the Legislature, to interpose, for the temporal salvation of a number of unfortunate fellow beings, who have been led, by the act of the constituted authorities of this State, and the proceedings of a Society, whose interposition has been invited by the Legislature, to expect and long for their great deliverance. And the benevolent members of the Legislature, as well as every citizen of Georgia, caring for the happiness of the Africans, or for the moral character of the State, should remember, that, not only such as are on hand, they will be subject under the act of 1817, and the resolutions of 1819-20, to be consigned to a hopeless state of slavery

"The condition in which the interposition of the managers has placed the thirty-four Africans who were introduced for sale in Georgia, [in 1819], will require the society, on the termination of the suit instituted on their recovery, by certain Spanish claimants," says the annual Report of 1820, "to indemnify the State for the expenses hitherto incurred on their maintenance, and to provide for their removal to Africa."

"It appears, then, to have been the intention of the Parent Society, in January, 1820, to carry into effect the arrangement, made in 1819, for the restoration of the thirty-four Africans. It is, no doubt, still their intention to do so, at this time. But the annual Report of the present year says nothing on the subject, and it is to be feared that the pressure of the times, and the misfortune of the Society in the case of Africa, may prevent their doing better, *than to do so*."

"In addition to those now Africans already claimed by the managers," (of the Parent Society,) says their annual Report for 1820, "there are others in Georgia, amounting in number to several hundreds, who have been brought into that State, under like circumstances. Of these, about sixty have been actually sold, and irrecoverably lost. The residue, to whom the pretended agents of certain Spanish monarchs have claimed, have been delivered to citizens of Georgia, on stipulations requiring that the holders should deliver them to the court before whose claims are now depending."

"As, from the positionous message of the late governor of Georgia, to the legislature of that State," continue the managers of the Parent Society, "there remains but little doubt, that in all these cases, decrees will be pronounced against the claimants, provision should be made, in conformity with the laws of Georgia and of the United States, for the transportation of them to their enlargement, and their restoration to their native country. Some of them, it is feared, *have been put out under securities, so incompetent to insure their future delivery to the court*. The rest will be afterwards conveyed to hereditary slavery, unless the legislature of Georgia shall interpose for their relief, on the behalf of the American Society, which is recommended to expedite the matter, by petitioning for the repeal of the Georgia law."

"There is then ground to believe, that the managers of the Parent Society are not accurately conveying that the thirty Africans sold by the State in 1819, are a part of the ninety negroes, called *the Negroes of Georgia* and William Boyce set up claims, which have been opposed; and against whom proceedings have been instituted, on behalf of the Society. Should they be condemned, subject to the laws of Georgia, they cannot, like the thirty-four who are unsold, be turned over to the Colonization Society, but the proceeds of the sale only. And as the legislature have endeavoured to prevent the payment of the State, for the purchase

of blood, ought not the proceeds of the sales, after deducting all the expenses incurred on account of Africans, to be so turned over: This would comport with the views of the legislature of 1817; which were, not to derive a revenue from an illicit and most cruel trade: but only to reimburse the expenses actually incurred by the State, and to throw the unfortunate persons in question, into the arms of a benevolent Society, for restoration to their country. 'Tis true, the sixty who have been actually sold, could not perhaps be so restored; but the proceeds of their sale, after deducting every cent of expense incurred on their account, and on account of all other Africans introduced in violation of the United States' laws, could be paid: the means of saving from the same dreadful fate, a considerable number of their unfortunate countrymen: several hundred of whom are subject to be sold under the laws of Georgia, for the benefit of the State, if adjudged subject to the State laws, if the justice of the general government should not supply the necessary funds for their relief, or if the funds of the Colonization Society should not unexpectedly be so enlarged, at an early day, as to enable them to relieve the Africans under the laws of Georgia.

"The managers of the Putnam Society are aware that there is an inconsistency to the disgrace which would attach to the character of the State, by the sale of the Africans, founded on the well known principle, that contraband goods are proper subjects of confiscation and sale, for the public benefit. It should be remembered, however, that our laws recognize people of colour not only as *things*—not only as articles of property, but as *persons*, as human beings, as men and women! In their former character, impressed by the mind of man, the Africans in question might very properly be sold to the benefit of the state; in their latter character, impressed by the heart of nature—inscribed by the finger of Heaven itself, they should be restored to their country. Nor can we justify the detention and sale of the Africans, on the same ground that we justify the detention and transfer of the mass of our slave population. In the case of our slaves, the separate claims of their numerous owners, the great number of slaves, the vast amount invested in this species of property, the mischievous consequences that would result from any thing like a sudden change in the existing state of things, and the indispensable necessity of constant language, order and subordination among our slaves, will go far to justify our conduct.

"In the case of the Africans none of these reasons operate. There are not a sufficient number of them; their number is small; the amount expended by the State on account of them is not in the least repaid; no mischievous consequences would result from their immediate removal; their detention and sale are not necessary to the maintenance of order among them or our slaves.

On leaving this topic, the managers desire that they may be understood. They have not asked a single cent from the State treasury. They only ask that the State shall not be *again* paid, from the scanty funds of a private society, those expenditures, which will have been amply reimbursed by the proceeds of the sales which have already taken place. They do not ask the State to relinquish its claim to a revenue arising from a legitimate or proper source; they only ask her to decline a revenue which she herself has shown a disposition to reject as improper. They only ask her, after fully reimbursing herself, to give the surplus, if any there be, arising from the sale of the sixty Africans, such a direction as will comport with the moral and political views recognised by the legislature and people of Georgia, which prompted the enactment of the provision attached to the act of 1817, and the consequent invitation to the Colonization Society—such a direction, as, although the fate of the sixty is perhaps sealed, will yet come nearest to the benevolent purpose of the legislature, by applying the surplus proceeds of their sale, to the restoration of their brethren who are yet within the reach of relief. The peculiar propriety of appropriating for such a purpose, a fund arising from such a source, is so manifest, that the managers hope it will force its way into the mind of every one.

• But if the Board may not be permitted to hope that the surplus proceeds of the sixty, after amply reimbursing the State, will be turned over to the Parent Society, the Patrim Society, or some other Society in our own State; or to some authority, (state or federal,) for the general purpose of relieving the several hundred Africans, who are not yet placed beyond the hope of restoration; the managers must yet be permitted to hope, that on condemnation, the thirty-four in and about Milledgeville, who have been led, by the parent Society, on the invitation of this State, to expect deliverance, will be turned over, free of cost, to the Colonization Society—remembering, what has so often been repeated, that the proceeds of the sixty who have been sold, will fully cover the expenses incurred on their own account, and on account of the thirty-four, who are believed all to have belonged in fact to the same period of ninety-five. So deeply interested are the managers in the deliverance of the several hundred Africans, not on moral grounds only, but on the law of the United States, and in contravention of the spirit of the Georgia ordinance especially, of the thirty-four, who were so cruelly sold, that they trust of believing men felt out to them, that it is incumbent on them to do so. The managers must, however, respectfully and earnestly appeal to the action of the people, the legislature, and the executive of the State, to the case of the innocent foreigners, and trust they will feel themselves bound to protect the rights of their humanity.

This strong appeal to the humanity of the Legislature of Georgia, was not disregarded. The managers are informed that a Resolution *unanimously* passed the last House of Representatives of that State, appropriating the proceeds of the sale mentioned in the able Report of the Putnam Society, to defray the expense of restoring to their long lost homes, such natives of Africa, as have been or may be brought into Georgia, in violation of her laws and those of the United States, for the suppression of the Slave-Trade.

This Resolution, the managers have learnt with regret, reached the Senate of Georgia too late to be acted upon, at their last session.



POSTSCRIPT.

From the Coast of Africa.

By the schooner Dolphin, arrived at Charleston, files of the Sierra Leone Gazette, to the 24th of February, have been received. We are sorry to find that they confirm the verbal reports brought by the same vessel, that the Slave-Trade is still carried on to a shameful extent, on the windward coast of Africa.

We learn by Captain Pearson, who came home in the Dolphin, that the American Colonists were comfortably settled at Cape Mesurado, and were highly pleased with their prospects. They found the climate healthy, and the soil fertile, and their wish was that their brethren generally in the United States would embrace the first opportunity to come and settle with them.

[*National Intelligencer,*

LIST OF SOCIETIES

AUXILIARY TO THE AMERICAN COLONIZATION SOCIETY.

Owing to the failure of many Auxiliary Societies seasonably to forward their annual reports to the Parent Society, the following List is necessarily incomplete. It is earnestly desired that all the Auxiliaries would put it in the power of the Managers to incorporate a correct statement of their annual proceedings in the Appendix of their Report.

MARYLAND AUXILIARY SOCIETY.

(established in Baltimore.)

Col. John Eager Howard, *President*.

Vice-Presidents.

Gen. Robert Goodloe Harper.....	.. .. .Hon. Chief Justice Brierly.
Gen. Wm. H. Winder.....	|
Luke Funnin, <i>Treasurer</i>.....	| Edward J. Coale, <i>Secretary</i> .

Managers.

Peter Hoffman.....	| .....John B. Morris.
Mary Elizabeth Wells, M. D.....	| .....Ph. E. Thomas.
John C. Smith.....	| .....Isaac McKim.

Life Members.

Isaac McKim.....	250	Nat. P. Williams..	50
Thomas F. Smith.....	100	Mr. Von Caph.....	50
Alexander McDevitt.....	160	J. J. Cohen, jun.....	50
John N. McAnany.....	100	John F. Lawrence.....	50
Harvey Emerson.....	100	Richard Cotton.....	50
C. C. Cook, of Conn.....	100	W. and N. Tyson.....	50
Thomas Fountain.....	100	Lake Tarnum.....	50
Peter Hoffmann.....	100	Robert Gilmer.....	200
John H. Hamilton.....	100	William Tyson.....	50
George Hamilton.....	100	Andrew Elliott.....	50
Anderson, Father & Son.....	100	Charles Elliott.....	50
— — — — —	50	Edw. Thomson.....	50
J. W. McCulloch.....	100	John McHenry.....	50
John E. Howard.....	200	Philip F. Thomas.....	50
James Campbell.....	50	Leah T. Thomas.....	50
J. Estlin.....	100	J. B. Thomas.....	50
John Colfield.....	50	Edw. Thomas.....	50
A. C. Collins.....	100	W. B. M. M. M. & Co.....	50
Roswell L. Collins.....	50		

ANNAPOLIS AUXILIARY SOCIETY.

J. T. Chase, *President*.*Vice-Presidents.*

1st, Wm. Kilty	11th, Wm. D. Digges.....
2d, Thomas Blackstone	12th, Wm. R. Street.....
3d, William Spencer.....	13th, Epaphrod. K. Wilson.....
4th, Peter Emerson.....	14th, R. B. Lacey.....
5th, C. Dorsey.....	15th, Charles S. Sewall.....
6th, Dr. Thomas Johnson.....	16th, William Hugglett.....
7th, William Heyward.....	17th, Francis Kennedy.....
8th, James Murray.....	18th, George C. Washington.....
9th, Benjamin W. LeCompte.....	19th, James Ennail.....
10th, John Moffat.....	

A. C. Magruder, *Secretary*.Jonathan Pinckney, *Treasurer*.John Brewer, *Recorder*.*Life Members.*

Chas. Goldsborough, Governor of Maryland.....	Henry H. Harwood.....	20
W. Kilty, Chan. do.....	Daniel Janifer.....	20
Henry Maynard.....	Clem. Dorsey.....	20
John Pinckney.....	George C. Washington.....	20
Benjamin Harwood.....	E. R. Wilson.....	20
Henry H. Chapman.....	Samuel Chaggett.....	20
Dr. John Ridgeley.....	R. B. Taney.....	20
	Virgil Maxey.....	20

NEW-YORK AUXILIARY SOCIETY.

Col. Henry Rutgers, *President*.*Vice Presidents.*

John R. B. Rogers, M. D.....	Rev. Alex. McLeod, D. D.
Davis Betts.....	

Jonathan Gould, *Treasurer*.G. N. Bleeker, {
J. E. Beck, M. D. } *Secretaries*.*Managers.*

Rev. John B. Romayne	Mr. John Adams.....
Rev. James Milnor.....	Mr. George Griffin.....
Mr. John Griscom.....	Mr. Wm. Colgate.....
Mr. Joseph Smith.....	Mr. Wm. B. Crosby.....
Mr. Nathan Taylor.....	Mr. George Gallagher.....
Mr. G. P. Shipman	

AUXILIARY SOCIETY OF PHILADELPHIA.

A complete List of Officers for the present year has not been received.
Some of its principal contributors, are--

Rev. J. Janeway	\$20	Alexander Henry.....	30
Richard Dale.....	30	Godfrey Hager.....	20
Rev. Wm. A. Muhlenburg.....	30	Frederick Beasley.....	20
Charles Chauncy.....	20	Mr. Vauhan.....	10
Cash	5	Paul Beck.....	20

Rev. W. White.....	25	Horace Banney.....	25
Mr. Chipper.....	10	William Meredith.....	10

SUBSCRIBERS IN PORTLAND, MAINE

Annual for Five Years.

Richard Cobb.....	John Hull.
Levi Cutter.....	David Dana.
Nathaniel Dana.....	Reuben Mitchell.
Ernest Pratt.....	Charles Blanchard.
Samuel Freeman.....	Ezekiel Hoole.
Rev. E. J. Payson.....	Nehemiah Cram.

Donations.

Thomas Brown.....	A friend.
Cash by friends.....	Cash.
Rev. P. S. Ten Broeck.....	A friend.

AUXILIARY SOCIETY OF NEW-HAVEN, CONNECTICUT.

Hon. Samson Baldwin, *President.**Five Presidents.*

Rev. Jeremiah Day, D. D....	William Moseley.
David Daggett.....	Isaac Gilbert.

Managers.

Obadiah Hotchkiss.....	H Ezekiah Hotchkiss.
William Lettingwell.....	Eneas Monson, jr.
Asahel Tuttle.....	Wm. McCrackan.
Joel Walter.....	Leman Dunning.
Luther Bradley.....	Rev. Henry Lines.
Henry Dennison, <i>Treasurer</i> ...	Ralph I. Ingersoll, <i>Secretary</i> .

AUXILIARY SOCIETY OF NEWBURY-POR, MASS

(List of Officers not received.)

Annual Subscribers for Five Years.

Thomas M. Clark.....\$ 10 00	William B. Banister.....\$ 5 00
Edward F. Cook.....5 00	Philip Combs.....3 00
Mary Pearson.....2 00	Richard Barthol.....3 00
John S. Pearson.....2 00	A. Knapp.....1 00
Henry Southwick.....5 00	Samuel Tenney.....1 00
Abner Caldwell.....2 00	Joseph Hale.....1 00
Alexander C. Crowell.....2 00	Edy and Cross.....1 00
Joseph S. Fitch.....2 00	Charles Clark.....1 00
John Boardman.....2 00	John D. Clark.....2 00
S. A. Thompson.....2 00	William F. Doughty.....5 00
Moses Brown.....5 00	

AUXILIARY SOCIETY OF PROVIDENCE, R. ISLAND

Samuel S. S. S. *President.*

Vice-Presidents.

Hon. William Jones.....	|	.....Alexander Jones
Nehemiah R. Knight.....	|	.....

Managers.

Nicholas Brown.....	|	.....Thomas Burges,
Rev. Nathan B. Crocker.....	|	.....Zachariah Allen.
Samuel W. Bridgham.....	|	.....Stanford Newell.
John Carlisle.....	|	.....
John Rowland, <i>Treasurer</i>.....	|	.....C. F. Tillingham, <i>Secretary</i> .

AUXILIARY SOCIETY OF MONTGOMERY COUNTY, MD.

(The Returns of this Society have not been transmitted)

AUXILIARY SOCIETY OF VERMONT.

(The last Report of this, consistent and vigorous Auxiliary, has not been received.)

AUXILIARY SOCIETY OF HARPER'S FERRY, VA.

John Stubblefield, *President*.*Vice-Presidents.*

William McGuire.....	|	.....Edward Wager.
Amistebel Beckham.....	|	.....Roger Humphrey.

Managers.

John Strickland.....	John Rickenbauge.
George Maloney.....	Martin Bittenbanger.
Philip Hoffman.....	James Clark.
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Life-Subscribers.

William McGuire.....	\$ 20 00		Roger Humphreys.....	\$ 20 00
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Rev. William Hill.....	Hon. Robert White
Rev. William Meade.....	Hon. Hugh Holmes.
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List of Donations payable in Five Annual Instalments.

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Phillip Burwell.....	500 00		James Sowers.....	100 00
Rev. William Meade.....	500 00		William Mitchell.....	100 00
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David Meade.....	500 00		James Davis.....	100 00

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Ober E. Johnston.....	200 00	Hen. Robert White.....	50 00
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James M. Hite.....	100 00		

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Late Subscribers.

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H. Huntington, for 3 years..	3 00	Mason F. Cogswell.....	1 00
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Samuel Sprigg.....	Charles Hill.
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Reuben Swain.....	Hermelhus Vendenhal'.
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Christ. Gadsden.....	\$50	John Anson.....	50
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Mr. Poinsett, (donor).....	50	Isaac Ball.....	50
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Rev. Mr. Payson.....	50	C. C. Pinckney.....	50
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Major Vandergrist.....	50		

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(Annually, for three years.)

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John Anderson.....	20	Hazen Kimball, 1 year.....	20
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Joseph Cumming.....	20	Richard H. Sherman, do.....	20
Oscar Sturges.....	20	L. B. Read.....	20
John P. Williamson.....	20	A. G. Semis.....	20
William Taylor.....	20	F. R. Gray.....	20
Dexter Leeson.....	20	Anthony Brazley.....	20
Robert H. Brinkman.....	20	T. Walburn.....	20
Andrew Smith.....	20	Henry Korlock.....	20
Edward F. Patrick.....	20		

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L. Waller, 5 years.....	\$ 25	M. C. Levensworth, 1 year.....	\$ 10
L. H. Montgomery, do.....	10	Nathula Ware, do.....	10
R. H. Waller, do.....	10	L. C. Chandler, do.....	10
Edward F. Campbell, do.....	25	John Campbell, do.....	10
Richard L. Thomas, do.....	20	Henry Nesbit, do.....	10
Charles Leland, do.....	10	John Moore, do.....	10
Wm. Cummings, do.....	25	John Cornuchael, do.....	10
Ralph Thomas, do.....	10	Samuel Hale, do.....	25
Augustus Slaughter, 5 years.....	25	James Elliott, do.....	10
Anderson Watkins, do.....	25		

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(Annually for 5 years.)

Subscribers.

Wm. Brown, dona.....	\$50	Thompson Bird.....	\$10
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Joel C. Gwyn, do.....	10	Solomon Betton.....	10
Daniel Stiles.....	10	Myles Green.....	10
John Lewis.....	10	William Fernel.....	10
James Green.....	10	Hines Holt.....	20
John G. Hines.....	10	Henry Darnell.....	10
William H. Greenham.....	10	Richard Morgan.....	10
Walter Jones.....	10	John Clark.....	10

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No Returns have yet been made by this Society.

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DAVIS & FORCE, PRINT.

ERRATA.

The names of two members of the Board of Managers, page 5, having been omitted, the whole corrected, are here reprinted.

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